

**THURSDAY, MAY 12, 2011**

**THIRTY-FOURTH LEGISLATIVE DAY**

**CALL TO ORDER**

The Senate met at 9:00 a.m., and was called to order by Mr. Speaker Ramsey.

**PRAYER**

The proceedings were opened with prayer by Reverend Larry Young of Holston Baptist Church in Strawberry Plains, Tennessee, a guest of Madam Speaker Pro Tempore Woodson.

**PLEDGE OF ALLEGIANCE**

Madam Speaker Pro Tempore Woodson led the Senate in the Pledge of Allegiance to the Flag.

**ROLL CALL**

The roll call was taken with the following results:

Present . . . . . 33

Senators present were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--33.

**STANDING COMMITTEE REPORTS**

**FINANCE, WAYS AND MEANS**

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 65 with amendment, 224, 775 with amendment, 852, 1025 with amendment, 1027 with amendment, 1048, 1205, 1262, 1334, 1788 and 1933 with amendment; and Senate Joint Resolution No. 118.

MCNALLY, Chairperson  
May 11, 2011

The Speaker announced that he had referred Senate Bills Nos. 65 with amendment, 224, 775 with amendment, 852, 1025 with amendment, 1027 with amendment, 1048, 1205, 1262, 1334, 1788 and 1933 with amendment; and Senate Joint Resolution No. 118 to the Committee on Calendar.

**JUDICIARY**

MR. SPEAKER: Your Committee on Judiciary begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 403, 419 with amendment, 558 with amendment, 604 with amendment, 1095 with amendment, 1149, 1270 and 1852 with amendment;

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and Senate Joint Resolution No. 315; also, recommend that Senate Bill No. 943 with amendment be referred to Committee on Finance, Ways and Means.

BEAVERS, Chairperson  
May 11, 2011

The Speaker announced that he had referred Senate Bills Nos. 403, 419 with amendment, 558 with amendment, 604 with amendment, 1095 with amendment, 1149, 1270 and 1852 with amendment; and Senate Joint Resolution No. 315 to the Committee on Calendar.

The Speaker announced that he had referred Senate Bill No. 943 with amendment to the Committee on Finance, Ways and Means.

### GOVERNMENT OPERATIONS

MR. SPEAKER: Your Committee on Government Operations begs leave to report that we have carefully considered and recommend for passage: Senate Bills Nos. 154 with amendment, 164 with amendment, 165 with amendment, 167 with amendment, 168 with amendment, 170 with amendment, 171 with amendment, 172 with amendment, 173 with amendment, 175 with amendment, 184 with amendment, 189 with amendment, 206 with amendment and 214; also, recommend that Senate Bill No. 424 with amendment be referred to Committee on Judiciary.

WATSON, Chairperson  
May 11, 2011

The Speaker announced that he had referred Senate Bills Nos. 154 with amendment, 164 with amendment, 165 with amendment, 167 with amendment, 168 with amendment, 170 with amendment, 171 with amendment, 172 with amendment, 173 with amendment, 175 with amendment, 184 with amendment, 189 with amendment, 206 with amendment and 214 to the Committee on Calendar.

The Speaker announced that he had referred Senate Bill No. 424 with amendment to the Committee on Judiciary.

### MOTION

Senator Norris moved, pursuant to Rule 32 and Article II, Section 18 of the Constitution of the State of Tennessee, **House Bills Nos. 140, 515, 715, 718, 789, 966, 1478, 1624 and 2150** be passed on first consideration, which motion prevailed.

### HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

**House Bill No. 140** -- DUI Offenses -- As introduced, clarifies various provisions of the ignition interlock requirements for certain DUI offenders. Amends TCA Title 7; Title 29; Title 37; Title 38; Title 39; Title 40; Title 41; Title 49; Title 55; Title 68 and Title 71.

**House Bill No. 515** -- Hospitals and Healthcare Facilities -- As introduced, redefines "trauma system" to include all Level IV trauma centers. Amends TCA Title 68, Chapter 59.

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**House Bill No. 715** -- Alcohol Offenses, Motor Vehicles -- As introduced, permits an officer to test the blood alcohol content of certain drivers regardless of whether they consent. Amends TCA Title 39; Title 40 and Title 55.

**House Bill No. 718** -- DUI Offenses -- As introduced, provides that if a person commits a DUI-related offense while on release for a DUI-related offense, the court or judicial commissioner may set conditions on the bond to eliminate the danger posed by the defendant. Amends TCA Title 40, Chapter 11.

**House Bill No. 789** -- Civil Procedure -- As introduced, provides that a cause of action for the death of a spouse does not pass to surviving spouse if surviving spouse abandoned deceased spouse for a period of at least two years prior to deceased spouse's death. Amends TCA Title 20, Chapter 5.

**House Bill No. 966** -- Insurance Companies, Agents, Brokers, Policies -- As introduced, enacts the "Surplus Lines Insurance Act" and the Surplus Lines Insurance Multi-State Compliance Compact. Amends TCA Title 56, Chapter 14.

**House Bill No. 1478** -- Public Funds and Financing -- As introduced, revises provisions under the "Local Government Public Obligations Act of 1986" regarding invalid obligations. Amends TCA Title 9, Chapter 21.

**House Bill No. 1624** -- Criminal Offenses -- As introduced, provides that offenses of wiretapping and electronic surveillance do not apply to person who installs software on a computer the person owns or is authorized to use when software is intended to monitor and record internet use by member of person's household, including, but not limited to, person's child. Amends TCA Title 39, Chapter 13, Part 6.

**House Bill No. 2150** -- Lafayette -- As introduced, subject to local approval, requires reading of ordinances on two different days, rather than three, prior to adoption; authorizes mayor to appoint a director of public works, subject to confirmation by the city council; increases salary of mayor. Amends Chapter 235 of the Private Acts of 1945; as amended.

### MOTION

Senator Norris moved, pursuant to Rule 33 and Article II, Section 18 of the Constitution of the State of Tennessee, that **Senate Bill No. 2116** be passed on second consideration and be referred to the appropriate committee or held on the Clerk's desk, which motion prevailed.

### SENATE BILL ON SECOND CONSIDERATION

The Speaker announced that the following bill passed second consideration and was referred to the appropriate committee or held on the Clerk's desk:

**Senate Bill No. 2116** Local bill -- held on desk.

### MOTION

Senator Norris moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 356 and 358 through 369**; and **Senate Resolution No. 48** be passed on first consideration and lie over, which motion prevailed.

**INTRODUCTION OF RESOLUTIONS**

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

**Senate Joint Resolution No. 356** by Senator Marrero.  
General Assembly, Confirmation of Appointment -- Andre K. Fowlkes, Tennessee regulatory authority.

**Senate Joint Resolution No. 358** by Senator Yager.  
Memorials, Death -- Adrion Baird.

**Senate Joint Resolution No. 359** by Senator Yager.  
Memorials, Death -- Edna Brashears Gibson.

**Senate Joint Resolution No. 360** by Senator Yager.  
Naming and Designating -- "James 'Moe' Haralson Health and Physical Fitness Center", gymnasium at Tennessee School for the Blind.

**Senate Joint Resolution No. 361** by Senator McNally.  
Memorials, Death -- Selma Shapiro.

**Senate Joint Resolution No. 362** by Senator Herron.  
Memorials, Recognition -- Westview High School cheerleaders, UCA National Champions.

**Senate Joint Resolution No. 363** by Senator Herron.  
Memorials, Academic Achievement -- Daniel Klingenberg, Valedictorian, Henry County High School.

**Senate Joint Resolution No. 364** by Senator Herron.  
Memorials, Academic Achievement -- Corey Douglas Schaal, Salutatorian, Henry County High School.

**Senate Joint Resolution No. 365** by Senator Herron.  
Memorials, Academic Achievement -- Katelyn Mackenzie Arnold, Salutatorian, Camden Central High School.

**Senate Joint Resolution No. 366** by Senator Herron.  
Memorials, Academic Achievement -- Taylor Douglas, Valedictorian, Camden Central High School.

**Senate Joint Resolution No. 367** by Senator Summerville.  
Memorials, Death -- Tennessee State Trooper Andrew "Andy" Thomas Wall.

**Senate Joint Resolution No. 368** by Senator Beavers.  
Memorials, Academic Achievement -- Amy Chapman, Salutatorian, Heritage Christian Academy.

**Senate Joint Resolution No. 369** by Senator Johnson.  
Memorials, Death -- Duren Cheek.

**Senate Resolution No. 48** by Senator McNally.  
Memorials, Death -- Mary Irene Pieratt Plumlee.

**MOTION**

Senator Norris moved, pursuant to Rule 21, **House Joint Resolutions Nos. 204, 407 through 409, 411 through 424, 426, 435 and 436;** and **Senate Joint Resolutions Nos. 344**

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**through 351 and 353 through 355** lie over and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

### **RESOLUTIONS LYING OVER**

The Speaker announced that the following resolutions passed second consideration and were referred to the appropriate committees or held on the desk, pursuant to Rule 21:

**House Joint Resolution No. 204** -- General Assembly, Directed Studies -- Directs TACIR to study funding of fire service, both paid and volunteer, by local governments.

The Speaker announced that he had referred House Joint Resolution No. 204 to the Committee on State and Local Government.

**House Joint Resolution No. 407** -- Memorials, Interns -- Stephanie Sparr.

The Speaker announced that he had referred House Joint Resolution No. 407 to the Committee on Calendar.

**House Joint Resolution No. 408** -- Memorials, Death -- Duren Cheek.

The Speaker announced that he had referred House Joint Resolution No. 408 to the Committee on Calendar.

**House Joint Resolution No. 409** -- Memorials, Recognition -- Crossville, Inc., 25th anniversary.

The Speaker announced that he had referred House Joint Resolution No. 409 to the Committee on Calendar.

**House Joint Resolution No. 411** -- Memorials, Academic Achievement -- Kayla A. Wade, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 411 to the Committee on Calendar.

**House Joint Resolution No. 412** -- Memorials, Academic Achievement -- Haley N. Clark, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 412 to the Committee on Calendar.

**House Joint Resolution No. 413** -- Memorials, Academic Achievement -- Katie E. McFarland, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 413 to the Committee on Calendar.

**House Joint Resolution No. 414** -- Memorials, Academic Achievement -- Casey Lynn Leamon, Top Twelve Graduate, Volunteer High School.

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The Speaker announced that he had referred House Joint Resolution No. 414 to the Committee on Calendar.

**House Joint Resolution No. 415** -- Memorials, Academic Achievement -- Ashley C. Galloway, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 415 to the Committee on Calendar.

**House Joint Resolution No. 416** -- Memorials, Academic Achievement -- Lauren H. Kimmel, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 416 to the Committee on Calendar.

**House Joint Resolution No. 417** -- Memorials, Academic Achievement -- Samantha J. Stapleton, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 417 to the Committee on Calendar.

**House Joint Resolution No. 418** -- Memorials, Academic Achievement -- Randall Wade Lumpkins, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 418 to the Committee on Calendar.

**House Joint Resolution No. 419** -- Memorials, Academic Achievement -- Frankie D. Merrill, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 419 to the Committee on Calendar.

**House Joint Resolution No. 420** -- Memorials, Academic Achievement -- Sara C. Moncier, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 420 to the Committee on Calendar.

**House Joint Resolution No. 421** -- Memorials, Academic Achievement -- Austin Neal Britton, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 421 to the Committee on Calendar.

**House Joint Resolution No. 422** -- Memorials, Academic Achievement -- Paige L. Roberts, Top Twelve Graduate, Volunteer High School.

The Speaker announced that he had referred House Joint Resolution No. 422 to the Committee on Calendar.

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**House Joint Resolution No. 423** -- Memorials, Academic Achievement -- Jacob O'Brian Seal, Salutatorian, Hancock County High School.

The Speaker announced that he had referred House Joint Resolution No. 423 to the Committee on Calendar.

**House Joint Resolution No. 424** -- Memorials, Academic Achievement -- Barclee Cannon, Valedictorian, Hancock County High School.

The Speaker announced that he had referred House Joint Resolution No. 424 to the Committee on Calendar.

**House Joint Resolution No. 426** -- Memorials, Death -- Tony Pace.

The Speaker announced that he had referred House Joint Resolution No. 426 to the Committee on Calendar.

**House Joint Resolution No. 435** -- Memorials, Interns -- Kolanje D. Thomas-Alexander.

The Speaker announced that he had referred House Joint Resolution No. 435 to the Committee on Calendar.

**House Joint Resolution No. 436** -- Memorials, Public Service -- Agenia Clark.

The Speaker announced that he had referred House Joint Resolution No. 436 to the Committee on Calendar.

**Senate Joint Resolution No. 344** -- Memorials, Death -- James Cowan Havron.

The Speaker announced that he had referred Senate Joint Resolution No. 344 to the Committee on Calendar.

**Senate Joint Resolution No. 345** -- Memorials, Professional Achievement -- *The Vol State Pioneer* magazine.

The Speaker announced that he had referred Senate Joint Resolution No. 345 to the Committee on Calendar.

**Senate Joint Resolution No. 346** -- Memorials, Personal Occasion -- Mary Graham Cook, 100th birthday.

The Speaker announced that he had referred Senate Joint Resolution No. 346 to the Committee on Calendar.

**Senate Joint Resolution No. 347** -- Memorials, Recognition -- White House Middle School Future Problem Solving Team.

The Speaker announced that he had referred Senate Joint Resolution No. 347 to the Committee on Calendar.

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**Senate Joint Resolution No. 348** -- Memorials, Professional Achievement -- Gerald Melton, President of Tennessee District Public Defenders Conference.

The Speaker announced that he had referred Senate Joint Resolution No. 348 to the Committee on Calendar.

**Senate Joint Resolution No. 349** -- Memorials, Academic Achievement -- Michael Welborn, Valedictorian, Heritage Christian Academy.

The Speaker announced that he had referred Senate Joint Resolution No. 349 to the Committee on Calendar.

**Senate Joint Resolution No. 350** -- Memorials, Retirement -- Mary Jean Smith.

The Speaker announced that he had referred Senate Joint Resolution No. 350 to the Committee on Calendar.

**Senate Joint Resolution No. 351** -- Memorials, Professional Achievement -- Susan Kessler, ASCD Outstanding Young Educator of the Year.

The Speaker announced that he had referred Senate Joint Resolution No. 351 to the Committee on Calendar.

**Senate Joint Resolution No. 353** -- Naming and Designating -- Names the Operations Group Building at McGhee Tyson Air National Guard Base the "Major General Forster Operations Group Building".

The Speaker announced that he had referred Senate Joint Resolution No. 353 to the Committee on State and Local Government.

**Senate Joint Resolution No. 354** -- General Assembly, Confirmation of Appointment -- Pamela B. Martin, Tennessee Ethics Commission.

The Speaker announced that he had referred Senate Joint Resolution No. 354 to the Committee on State and Local Government.

**Senate Joint Resolution No. 355** -- Memorials, Death -- M.C. Wallace, Sr.

The Speaker announced that he had referred Senate Joint Resolution No. 355 to the Committee on Calendar.

### MOTION

Senator Marrero moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Resolution No. 49**, out of order, which motion prevailed.

### INTRODUCTION OF RESOLUTION

**Senate Resolution No. 49** by Senator Marrero.  
Memorials, Interns -- Carla Caviness.



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On motion of Senator Marrero, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 49** was adopted.

A motion to reconsider was tabled.

### **CONSENT CALENDAR NO. 1**

**Senate Resolution No. 46** -- Memorials, Interns -- Caleb Mackenzie Tindell.

**House Joint Resolution No. 373** -- Memorials, Recognition -- Messick High School, 103rd anniversary.

**House Joint Resolution No. 374** -- Memorials, Personal Achievement -- Parker Campbell Hilleary, Eagle Scout.

**House Joint Resolution No. 375** -- Memorials, Recognition -- Henry Martin Cathey, World War II veteran.

**House Joint Resolution No. 376** -- Memorials, Recognition -- Community Mediation Services, Inc., 25th anniversary.

**House Joint Resolution No. 377** -- Memorials, Professional Achievement -- Treavor Thaxton, Robertson County Chamber of Commerce Outstanding Senior Award.

**House Joint Resolution No. 378** -- Memorials, Professional Achievement -- Shawna McAdams, Robertson County Chamber of Commerce Outstanding Senior Award.

**House Joint Resolution No. 379** -- Memorials, Professional Achievement -- Jonathan Bryant, Robertson County Chamber of Commerce Outstanding Senior Award.

**House Joint Resolution No. 380** -- Memorials, Professional Achievement -- Caroline Mullen, Robertson County Chamber of Commerce Outstanding Senior Award.

**House Joint Resolution No. 381** -- Memorials, Professional Achievement -- Savanna Darnall, Robertson County Chamber of Commerce Outstanding Senior Award.

**House Joint Resolution No. 382** -- Memorials, Professional Achievement -- Michael Yates, Robertson County Chamber of Commerce Outstanding Senior Award.

**House Joint Resolution No. 383** -- Memorials, Interns -- Jeremy Williams.

**House Joint Resolution No. 384** -- Memorials, Recognition -- Children of the Confederacy, 57th Annual Convention.

**House Joint Resolution No. 385** -- Memorials, Recognition -- Principal Jamie Wheeler, Jacksboro Middle School, Value-Added Achievement Award.

**House Joint Resolution No. 386** -- Memorials, Personal Occasion -- Montieze Fogle Potts, 100th birthday.

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**House Joint Resolution No. 388** -- Memorials, Death -- William Crutchfield, Jr.

**House Joint Resolution No. 389** -- Memorials, Recognition -- Flag Day's history.

**House Joint Resolution No. 390** -- Memorials, Academic Achievement -- Inaugural class of the Master of Science in Clinical Nurse Leader program at the University of Tennessee Health Science Center.

**House Joint Resolution No. 391** -- Memorials, Recognition -- Myra Stiles.

**House Joint Resolution No. 392** -- Memorials, Public Service -- James H. Johnson, Jr.

**House Joint Resolution No. 393** -- Memorials, Recognition -- Observes National Day of Prayer, May 5, 2011, and commemorates one-year anniversary of Tennessee Floods of 2010.

Senator Faulk moved that all Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes .....	32
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

**CONSENT CALENDAR NO. 2**

**Senate Joint Resolution No. 276** -- Memorials, Recognition -- Annual Statehood Day Living History Weekend.

**House Joint Resolution No. 192** -- Naming and Designating -- "Certified Government Financial Manager Month", March 2011.

Senator Faulk moved that all Senate Joint Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes .....	32
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

**LOCAL BILL**  
**CONSENT CALENDAR**

**Senate Bill No. 2010** -- Franklin County -- As introduced, subject to local approval, increases the hotel / motel tax from an amount not to exceed 5% to an amount not to exceed 7%. Amends Chapter 219 of the Private Acts of 1988.

On motion, Senate Bill No. 2010 was made to conform with **House Bill No. 1076**.

On motion, House Bill No. 1076, on same subject, was substituted for Senate Bill No. 2010.

**Senate Bill No. 2111** -- Newbern -- As introduced, subject to local approval, revises the charter to establish staggered terms for the aldermen, to eliminate the need for periodic reappointment of the recorder and revise the duties of the recorder, and to eliminate the need for periodic reappointment of the police chief. Amends Chapter 450 of the Acts of 1901.

On motion, Senate Bill No. 2111 was made to conform with **House Bill No. 2131**.

On motion, House Bill No. 2131, on same subject, was substituted for Senate Bill No. 2111.

Senator Faulk moved that all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	32
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

**MOTION**

Senator Faulk moved that **Senate Bill No. 1522** be considered next, out of order, which motion prevailed by the following vote:

Ayes .....	20
Noes .....	10

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Berke, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero and Stewart--10.

**CALENDAR**

**Senate Bill No. 1522** -- Civil Procedure -- As introduced, enacts the "Tennessee Civil Justice Act of 2011". Amends TCA Title 20; Title 27; Title 29 and Title 47.

Senator Overbey declared Rule 13 on **Senate Bill No. 1522**.

Senator Berke declared Rule 13 on **Senate Bill No. 1522**.

Senator Faulk declared Rule 13 on **Senate Bill No. 1522**.

Senator Norris declared Rule 13 on **Senate Bill No. 1522**.

Senator Finney declared Rule 13 on **Senate Bill No. 1522**.

Senator Kelsey declared Rule 13 on **Senate Bill No. 1522**.

Senator Herron declared Rule 13 on **Senate Bill No. 1522**.

Senator Haynes declared Rule 13 on **Senate Bill No. 1522**.

Senator Ketron declared Rule 13 on **Senate Bill No. 1522**.

Senator Johnson declared Rule 13 on **Senate Bill No. 1522**.

On motion, Senate Bill No. 1522 was made to conform with **House Bill No. 2008**.

On motion, House Bill No. 2008, on same subject, was substituted for Senate Bill No. 1522.

Senator Beavers moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. This act shall be known and cited as the "Tennessee Civil Justice Act of 2011".

SECTION 2. Tennessee Code Annotated, Section 20-4-104, is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) For all civil actions, if the defendant is not a natural person, the action shall be brought in:

(1) The county where all or a substantial part of the events or omissions giving rise to the cause of action occurred; or

(2)(A) The county where a defendant's principal office in this state is located; or

(B) If a defendant does not maintain a principal office in this state, the county where the person designated by statute as the defendant's agent for service of process is located.

SECTION 3. Tennessee Code Annotated, Section 20-4-101(a), is amended by deleting the language "defendant resides or is found" and substituting instead the language "individual defendant resides".

SECTION 4. Tennessee Code Annotated, Section 20-4-102, is amended by deleting subsection (b) in its entirety and redesignating accordingly.

SECTION 5. Tennessee Code Annotated, Section 20-4-106, is amended by deleting the section in its entirety.

SECTION 6. Tennessee Code Annotated, Title 20, Chapter 4, Part 1, is amended by adding the following as an appropriately designated section:

( ) Nothing in this part shall be construed to repeal or modify any other specific or special venue provision of state law.

SECTION 7. Tennessee Code Annotated, Section 27-1-124, is amended by deleting the section in its entirety and substituting the following instead:

27-1-124.

(a) If a plaintiff in a civil action obtains a judgment under any legal theory, the amount of the appeal bond necessary to stay execution during the course of all appeals or discretionary reviews of that judgment by any appellate court shall not exceed the lesser of (1) twenty-five million dollars (\$25,000,000) or (2) one hundred and twenty-five percent (125%) of the judgment amount.

(b) For purposes of determining the amount of the required bond, the court shall not include punitive or exemplary damages in the judgment amount.

(c) Notwithstanding subsections (a) and (b) if a party proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid payment of a judgment, a court may enter orders that are necessary to protect the appellee and establish the bond amount, which may include any punitive or exemplary damages.

(d) If the appellant establishes by clear and convincing evidence at a post judgment hearing that the cost of the bond and the obligation resulting from the surety's payment of the bond in an amount authorized by this section will render the appellant insolvent, the court shall establish a security in an amount, and other terms and conditions it deems proper, that would allow the appeal of the judgment to proceed, without resulting in the appellant's insolvency. This subsection (d) should be narrowly construed.

(e) If this section is found to be in conflict with any rules prescribed by the supreme court, this section shall apply notwithstanding the provisions of § 16-3-406.

SECTION 8. Tennessee Code Annotated, Title 29, Chapter 26, Part 1, is amended by adding the following as a new section, to be designated as § 29-26-101:

29-26-101.

As used in this part, unless the context otherwise requires:

(a) "Healthcare provider" means:

(1) A healthcare practitioner licensed, authorized, certified, registered, or regulated under any chapter of Titles 63 or 68, including, but not limited to, medical resident physicians, interns, and fellows participating in a training program of one of the accredited medical schools or of one of such medical school's affiliated teaching hospitals in Tennessee;

(2) A nongovernmental healthcare facility licensed under Title 68, Chapter 11;

(3) A nongovernmental health facility licensed under Title 33, Chapter 2, Part 4;

(4) The employee of a healthcare provider involved in the provision of health care, including, but not limited to, physicians, nurses, licensed practical nurses, orderlies, certified nursing assistants, technicians and those employed by a governmental health facility; or

(5) A professional corporation or professional limited liability company established pursuant to Title 48 or a registered limited liability partnership rendering professional services under Title 61 and which consists of one or more healthcare practitioner(s) licensed, authorized, certified, registered, or regulated under any chapter of Titles 63 or 68.

(b) "Healthcare liability action" means any civil action, including claims against the state or a political subdivision thereof, alleging that a healthcare provider or providers have caused an injury related to the provision of, or failure to provide, healthcare services to a person, regardless of the theory of liability on which the action is based.

(c) Healthcare services to persons includes, but is not limited to, care by physicians, nurses, licensed practical nurses, pharmacists, pharmacy interns or pharmacy technicians under the supervision of a pharmacist, orderlies, certified nursing assistants, technicians and other agents, employees and representatives of the provider, but also includes staffing, custodial or basic care, positioning, hydration and similar patient services.

(d) Any such civil action or claim is subject to the provisions of this part regardless of any other claims, causes of action, or theories of liability alleged in the complaint, provided that no provision of this part shall apply to claims against the State of Tennessee to the extent that

such provision is inconsistent with or conflicts with the provisions of the Tennessee Claims Commission Act, codified in Title 9, Chapter 8, Part 3.

SECTION 9. The code commission is requested to delete the terms "malpractice", "medical malpractice", "malpractice action", and "medical malpractice action" wherever they appear in the Tennessee Code Annotated and substitute instead the term "healthcare liability" or "healthcare liability action" as applicable.

SECTION 10. Tennessee Code Annotated, Title 29, is amended by adding the following as a new Chapter 39, Part 1:

29-39-101.

When used in this act, the following words, shall have the meanings set forth below, unless the context clearly requires otherwise:

(a) "Economic damages" means damages, to the extent they are provided by applicable law, for: objectively verifiable pecuniary damages arising from medical expenses and medical care, rehabilitation services, mental health treatment, custodial care, loss of earnings and earning capacity, loss of income, burial costs, loss of use of property, repair or replacement of property, obtaining substitute domestic services, loss of employment, loss of business or employment opportunities, and other objectively verifiable monetary losses.

(b) "Noneconomic damages" means damages, to the extent they are provided by applicable law, for: physical and emotional pain; suffering; inconvenience; physical impairment; disfigurement; mental anguish; emotional distress; loss of society, companionship, and consortium; injury to reputation; humiliation; noneconomic effects of disability, including loss of enjoyment of normal activities, benefits and pleasures of life and loss of mental or physical health, well-being or bodily functions; and all other nonpecuniary losses of any kind or nature.

29-39-102.

(a) In a civil action, each injured plaintiff may be awarded:

(1) Compensation for economic damages suffered by each injured plaintiff; and

(2) Compensation for any noneconomic damages suffered by each injured plaintiff not to exceed seven hundred fifty thousand dollars (\$750,000) for all injuries and occurrences that were or could have been asserted, regardless of whether the action is based on a single act or omission or a series of acts or omissions that allegedly caused the injuries or death.

(b) If multiple defendants are found liable under the principle of comparative fault, the amount of all noneconomic damages, not to exceed seven hundred fifty thousand dollars (\$750,000) for each injured plaintiff, shall be apportioned among the defendants based upon the percentage of fault for each defendant, so long as the plaintiff's comparative fault (or in a wrongful death action, the fault of the decedent) is not equal to or greater than fifty percent (50%), in which case recovery for any damages is barred.

(c) If an injury or loss is catastrophic in nature, as defined below, the seven hundred fifty thousand dollar (\$750,000) amount limiting noneconomic damages, as set forth in subsections (a)(2) through (b) is increased to, but the amount of damages awarded as noneconomic damages shall not exceed, one million dollars (\$1,000,000).

(d) "Catastrophic loss or injury" means one or more of the following:

(1) Spinal cord injury resulting in paraplegia or quadriplegia;

(2) Amputation of two hands, two feet or one of each;

(3) Third-degree burns over forty percent (40%) or more of the body as a whole or third-degree burns up to forty percent (40%) percent or more of the face; or

(4) Wrongful death of a parent leaving a surviving minor child or children for whom the deceased parent had lawful rights of custody or visitation.

(e) All noneconomic damages awarded to each injured plaintiff, including damages for pain and suffering, as well as any claims of a spouse or children for loss of consortium or any derivative claim for noneconomic damages, shall not exceed in the aggregate a total of seven hundred fifty thousand dollars (\$750,000), unless subdivision (c) applies, in which case the aggregate amount shall not exceed one million dollars (\$1,000,000).

(f) If there is a disputed issue of fact, the trier of fact, by special verdict, shall determine the existence of a catastrophic loss or injury as defined in subsection (d).

(g) The limitation on the amount of noneconomic damages imposed by subsections (a)(2) through (e) shall not be disclosed to the jury, but shall be applied by the court to any award of noneconomic damages.

(h) The limitation on the amount of noneconomic damages imposed by subsections (a)(2) through (e) shall not apply to personal injury and wrongful death actions:

(1) If the defendant had a specific intent to inflict serious physical injury, and the defendant's intentional conduct did, in fact, injure the plaintiff;



(2) If the defendant materially altered, destroyed or concealed records with the purpose of avoiding or evading liability, provided, however, that this subsection does not apply to the good faith withholding of records pursuant to privileges and other laws applicable to discovery; or

(3) If the defendant was under the influence of alcohol, drugs or any other intoxicant or stimulant, resulting in his or her judgment being substantially impaired, and causing the injuries or death. For purposes of this subsection, a defendant shall not be deemed to be under the influence of drugs or any other intoxicant or stimulant, if the defendant was using lawfully prescribed drugs administered in accordance with a prescription or over-the-counter drugs in accordance with the written instructions of the manufacturer.

(i) If there is a dispute of fact, the trier of fact, by special verdict, shall determine whether the exceptions set forth in subsection (h) apply to the defendant and the cause of action.

(j) The liability of a defendant for noneconomic damages whose liability is alleged to be vicarious shall be determined separately from that of any alleged agent, employee or representative.

(k) Noneconomic damages are not permitted for any claim arising out of harm or loss of property, except as authorized by statute.

(l) No provision in this part shall apply to claims against the State of Tennessee to the extent that such provision is inconsistent with or conflicts with the provision of the Tennessee Claims Commission Act, codified in Title 9, Chapter 8, Part 3. In addition, no provision in this part shall apply to claims against a governmental entity or its employees to the extent that such provision is inconsistent with or conflicts with the Governmental Tort Liability Act, codified in Title 29, Chapter 20.

(m) Nothing in this act shall be construed to create or enhance any claim, right of action, civil liability, economic damage or noneconomic damage under Tennessee law.

29-39-103.

(a) If liability is found in a civil action, then the trier of fact, in addition to other appropriate findings, shall make separate findings for each claimant specifying the amount of:

(1) Any past damages for each of the following types of damages:

(A) Medical and other costs of health care;

(B) Other economic damages; and

(C) Noneconomic damages; and

(2) Any future damages and the periods over which they will accrue, on an annual basis, for each of the following types of damages:

(A) Medical and other costs of health care;

(B) Other economic damages; and

(C) Noneconomic damages.

(b) If the plaintiff claims a catastrophic loss or injury has occurred, and if there is a disputed issue of fact regarding whether such loss or injury has occurred, the trier of fact must make a specific finding of fact, by special verdict, that the loss or injury suffered by the plaintiff is catastrophic as defined in § 29-39-102(d).

(c) The calculation of all future medical care and other costs of health care and future noneconomic losses must reflect the costs and losses during the period of time the claimant will sustain those costs and losses. The calculation for other economic loss must be based on the losses during the period of time the claimant would have lived but for the injury upon which the claim is based. All such calculations of future losses shall be adjusted to reflect net present value.

29-39-104.

(a) In a civil action in which punitive damages are sought:

(1) Punitive damages may only be awarded if the claimant proves by clear and convincing evidence that the defendant against whom punitive damages are sought acted maliciously, intentionally, fraudulently or recklessly.

(2) In an action in which the claimant seeks an award of punitive damages, the trier of fact in a bifurcated proceeding shall first determine whether compensatory damages are to be awarded and in what amount and by special verdict whether each defendant's conduct was malicious, intentional, fraudulent or reckless and whether subsection (a)(7) applies.

(3) If a jury finds that the defendant engaged in malicious, intentional, fraudulent, or reckless conduct, then the court shall promptly commence an evidentiary hearing in which the jury shall determine the amount of punitive damages, if any.

(4) In all cases involving an award of punitive damages, the trier of fact, in determining the amount of punitive damages, shall consider, to the extent relevant, the following: the defendant's financial condition and net worth; the nature and reprehensibility of the defendant's wrongdoing; the impact of the defendant's conduct on the plaintiff; the relationship of the defendant to the plaintiff; the defendant's awareness of the amount of harm being caused and the

defendant's motivation in causing such harm; the duration of the defendant's misconduct and whether the defendant attempted to conceal such misconduct; the expense plaintiff has borne in attempts to recover the losses; whether the defendant profited from the activity, and if defendant did profit, whether the punitive award should be in excess of the profit in order to deter similar future behavior; whether, and the extent to which, defendant has been subjected to previous punitive damage awards based upon the same wrongful act; whether, once the misconduct became known to defendant, defendant took remedial action or attempted to make amends by offering a prompt and fair settlement for actual harm caused; and any other circumstances shown by the evidence that bear on determining a proper amount of punitive damages. The trier of fact shall be instructed that the primary purpose of punitive damages is to punish the wrongdoer and deter similar misconduct in the future by the defendant and others while the purpose of compensatory damages is to make the plaintiff whole.

(5) Punitive or exemplary damages shall not exceed an amount equal to the greater of:

(A) Two (2) times the total amount of compensatory damages awarded; or

(B) Five hundred thousand dollars (\$500,000).

(6) The limitation on the amount of punitive damages imposed by subdivision (a)(5) shall not be disclosed to the jury, but shall be applied by the court to any punitive damages verdict.

(7) The limitation on the amount of punitive damages imposed by subdivision (a)(5) shall not apply to actions brought for damages or an injury:

(A) If the defendant had a specific intent to inflict serious physical injury, and the defendant's intentional conduct did, in fact, injure the plaintiff;

(B) If the defendant materially altered, destroyed or concealed records with the purpose of avoiding or evading liability, provided, however, that this subsection does not apply to the good faith withholding of records pursuant to privileges and other laws applicable to discovery; or

(C) If the defendant was under the influence of alcohol, drugs or any other intoxicant or stimulant, resulting in his or her judgment being substantially impaired, and causing the injuries or death. For purposes of this subsection, a defendant shall not be deemed to be under the influence of drugs or any other intoxicant or stimulant, if the defendant was using lawfully

prescribed drugs administered in accordance with a prescription or over-the-counter drugs in accordance with the written instructions of the manufacturer.

(8) If there is a disputed issue of fact, the trier of fact, by special verdict, shall determine whether the exceptions set forth in subdivision (a)(7) apply to the defendant and the cause of action.

(9) The culpability of a defendant for punitive damages whose liability is alleged to be vicarious shall be determined separately from that of any alleged agent, employee or representative.

(b) Nothing in this section shall be construed as creating a right to an award of punitive damages or to limit the duty of the court, or the appellate courts, to scrutinize all punitive damage awards, ensure that all punitive damage awards comply with applicable procedural, evidentiary and constitutional requirements, and to order remittitur when appropriate.

(c) The seller of a product other than the manufacturer shall not be liable for punitive damages, unless the seller exercised substantial control over that aspect of the design, testing, manufacture, packaging or labeling of the product that caused the harm for which recovery of damages is sought; the seller altered or modified the product and the alteration or modification was a substantial factor in causing the harm for which recovery of damages is sought; or the seller had actual knowledge of the defective condition of the product at the time the seller supplied the same.

(d)(1) Except as provided in subdivision (2) of this subsection (d), punitive damages shall not be awarded in a civil action involving a drug or device if the drug or device which allegedly caused the claimant's harm:

(A) Was manufactured and labeled in relevant and material respects in accordance with the terms of an approval or license issued by the Federal Food and Drug Administration under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C. 301-392, as amended, or the "Public Health Service Act", 53 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended; or

(B) Was an over-the-counter drug or device marketed pursuant to federal regulations, was generally recognized as safe and effective and as not being misbranded pursuant to the applicable federal regulations, and satisfied in relevant and material respects each of the conditions contained in the applicable regulations and each of the conditions contained in an applicable monograph.

(2) Subdivision (d)(1) of this subsection (d) shall not apply in an action against a manufacturer of a drug or device, if, at any time before the event alleged to have caused the harm, the manufacturer, in violation of applicable regulations of the Food and Drug Administration:

(A) Withheld from the Food and Drug Administration information known to be material and relevant to the harm that the claimant allegedly suffered; or

(B) Misrepresented to the Food and Drug Administration information of that type.

(3) For purposes this subsection (d),

(A) "Drug" has the same meaning as in the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040, 1041 (1938), 21 U.S.C. 321(g)(1), as amended.

(B) "Device" has the same meaning as in the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040, 1041 (1938), 21 U.S.C. 321(h), as amended.

(e) Punitive damages shall not be awarded in any civil action when a defendant demonstrates by a preponderance of the evidence that it was in substantial compliance with applicable federal and state regulations setting forth specific standards applicable to the activity in question and intended to protect a class of persons or entities that includes the plaintiff, if those regulations were in effect at the time the activity occurred.

(f) Nothing contained in this chapter shall be construed to limit a court's authority to enter judgment as a matter of law prior to or during a trial on a claim for punitive damages.

SECTION 11. Tennessee Code Annotated, Section 29-28-104, is amended by designating the existing language as subsection (a) and by adding the following new subsection (b):

(b) A manufacturer or seller, other than a manufacturer of a drug or device, shall not be liable for exemplary or punitive damages if:

(1) The product alleged to have caused the harm was designed, manufactured, packaged, labeled, sold, or represented in relevant and material respects in accordance with the terms of approval, license or similar determination of a government agency; or

(2) The product was in compliance with a statute of the state or the United States, or a standard, rule, regulation, order, or other action of a government agency pursuant to statutory authority, when such statute or agency action is relevant to the event or risk allegedly causing the harm and the product was in compliance at the time the product left the control of the manufacturer or seller.

(c) Subsection (b) shall not apply if the claimant establishes that the manufacturer or seller:

(1) At any time before the event that allegedly caused the harm, sold the product after the effective date of an order of a government agency that ordered the removal of the product from the market or withdrew the agency's approval of the product; or

(2) In violation of applicable regulations, withheld or misrepresented to the government agency information material to the approval and such information is relevant to the harm which the claimant allegedly suffered.

(d) The award of punitive or exemplary damages against a manufacturer of a drug or device shall be governed by § 29-39-104.

SECTION 12. Tennessee Code Annotated, Section 29-28-106, is amended by deleting the section in its entirety and by substituting instead the following:

29-28-106.

No "product liability action", as defined in § 29-28-102(6), shall be commenced or maintained against any seller, other than the manufacturer, unless:

(1) The seller exercised substantial control over that aspect of the design, testing, manufacture, packaging or labeling of the product that caused the alleged harm for which recovery of damages is sought;

(2) Altered or modified the product, and the alteration or modification was a substantial factor in causing the harm for which recovery of damages is sought;

(3) The seller gave an express warranty as defined by Title 47, Chapter 2;

(4) The manufacturer or distributor of the product or part in question is not subject to service of process in the State of Tennessee and the long-arm statutes of Tennessee do not serve as the basis for obtaining service of process; or

(5) The manufacturer has been judicially declared insolvent.

SECTION 13. Tennessee Code Annotated, Section 27-1-125, is amended by deleting the section in its entirety and by substituting instead the following:

The court of appeals shall hear appeals from orders of trial courts granting or denying class certification under Rule 23 of the Tennessee Rules of Civil Procedure, if a notice is filed within ten (10) days after entry of the order. All proceedings in the trial court shall be automatically stayed pending the appeal of the class certification ruling.

SECTION 14. Tennessee Code Annotated, Section 47-18-109, is amended by adding the following language as a new, appropriately designated subsection:

( ) No private right of action shall be commenced under this section for any alleged unfair or deceptive act or practice involving the marketing or sale of a security as defined in the Tennessee Securities Act, § 48-2-102(17).

SECTION 15. Tennessee Code Annotated, Section 47-18-104, is amended by adding the following language at the end of subdivision (b)(27):

provided, however, that enforcement of this subdivision (b)(27) is vested exclusively in the office of the attorney general and reporter and the director of the division.

SECTION 16. Tennessee Code Annotated, Section 47-18-109, is amended by deleting the period "." at the end of subdivision (a)(3) and substituting instead the following:

, except that the court may not award exemplary or punitive damages for the same unfair or deceptive practice.

SECTION 17. Tennessee Code Annotated, Section 47-18-109(f)(2), is amended by adding the following after the language "director of the division":

and attorney general and reporter

SECTION 18. Tennessee Code Annotated, Section 47-18-109, is amended by adding the following language to be designated as subsection (g):

(g) No class action lawsuit may be brought to recover damages for an unfair or deceptive act or practice declared to be unlawful by this part.

SECTION 19. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to that end the provisions of this act are declared to be severable.

SECTION 20. For the avoidance of any doubt with respect to the intent of the legislature, if the noneconomic damages limits established in 29-39-102(a)(2) would be invalid due to the exceptions to the limits set forth in either 29-39-102(c) or 29-39-102(h), then 29-39-102(c) or 29-39-102(h) shall be severed to preserve the application of 29-39-102(a)(2).

SECTION 21. For the avoidance of any doubt with respect to the intent of the legislature, if the punitive damages limits established in 29-39-104(a)(5) would be invalid due to the exceptions to the limits set forth in 29-39-104(a)(7), then 29-39-104(a)(7) shall be severed to preserve the application of 29-39-104(a)(5).

SECTION 22. This act shall take effect October 1, 2011, the public welfare requiring it and shall apply to all liability actions for injuries, deaths and losses covered by this act which accrue on or after such date.

On motion of Senator Barnes, Amendment No. 1 to Amendment No. 1 was withdrawn.

Pursuant to Rule 53, Senator Herron called for the Division of the Question on Amendment No. 1, which motion prevailed.

Senator McNally moved to suspend Rule 53 for the entirety of **House Bill No. 2008**, which motion failed by the following vote:

Ayes . . . . . 19  
Noes . . . . . 14

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Stewart and Tate--14.

Senator Norris moved that **House Bill No. 2008** be moved two places down on the Calendar for today, which motion prevailed.

**Senate Bill No. 1598** -- Election Laws -- As introduced, establishes a test to determine whether an elderly person or a person having a mental or developmental disability has committed a felony for attempting to or for voting twice in an election in certain circumstances. Amends TCA Title 2.

Senator Yager moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting in its entirety all of the language following the enactment clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 2-7-112, is amended by deleting in its entirety the first sentence from subdivision (a)(3)(A) and by substituting instead the following:

(3)(A) A person shall be entitled to vote a provisional ballot under the procedures of this section if the voter claims to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined by the computer signature list, by examination of the permanent registration records on file with the county election commission, or an election official asserts that the individual is not eligible to vote.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1598**, as amended, passed its third and final consideration by the following vote:

Ayes .....	31
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.



**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**Senate Bill No. 1670** -- Immigration -- As introduced, codifies federal regulations to ensure that local absorptive capacity is evaluated at regular intervals in consultation between local governments and local resettlement agencies before commitments are made for refugee resettlement in any particular community. Amends TCA Title 5; Title 6; Title 7; Title 45 and Title 71.

On motion, Senate Bill No. 1670 was made to conform with **House Bill No. 1632**.

On motion, House Bill No. 1632, on same subject, was substituted for Senate Bill No. 1670.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 1632** passed its third and final consideration by the following vote:

Ayes . . . . .	22
Noes . . . . .	9
Present, not voting . . .	1

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Haynes, Herron, Marrero and Stewart--9.

Senator present and not voting was: Harper--1.

A motion to reconsider was tabled.

**FURTHER ACTION ON HOUSE BILL NO. 2008**

Senator Norris moved that **House Bill No. 2008** be moved two places down on the Calendar for today, which motion prevailed.

Senator Yager moved that **Senate Bill No. 1198** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

**MR. SPEAKER RAMSEY RELINQUISHES CHAIR**

Mr. Speaker Ramsey relinquished the Chair to Senator Woodson as Speaker pro tempore.

Senator Finney moved that **Senate Bill No. 1845** be placed on the Calendar for Wednesday, May 18, 2011, which motion prevailed.

Senator Campfield moved that **Senate Bill No. 49** be placed at the heel of the Calendar for Wednesday, May 18, 2011, which motion prevailed.

Senator Bell moved that **Senate Bill No. 520**, as amended, be placed on the Calendar for Wednesday, May 18, 2011, which motion prevailed.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**FURTHER ACTION ON HOUSE BILL NO. 2008**

Senator Norris moved that **House Bill No. 2008** be moved two places down on the Calendar for today, which motion prevailed.

Senator Watson moved that **Senate Bill No. 230** be placed on the Calendar for Wednesday, May 18, 2011, which motion prevailed.

**MOTION**

Senator Campfield moved that Rule 37 be suspended for the immediate consideration of **House Joint Resolution No. 427**, out of order, which motion prevailed.

**RESOLUTION LYING OVER**

**House Joint Resolution No. 427** -- Memorials, Recognition -- Helping Hands and Linking Arms Season of Service.

On motion of Senator Campfield, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 427** was concurred in.

A motion to reconsider was tabled.

**MR. SPEAKER RAMSEY RESUMES CHAIR**

Mr. Speaker Ramsey resumed the Chair.

**CALENDAR**

**Senate Bill No. 266** -- Motor Vehicles, Titling and Registration -- As introduced, requires notice be given to Department of Revenue when title to a motor vehicle is transferred; relieves responsibility of seller of a motor vehicle for actions taken by purchasers of such motor vehicle. Amends TCA Title 55, Chapter 3.

On motion of Senator Tracy, Amendment No. 1 was withdrawn.

Senator McNally moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-3-211, is amended by deleting the language "As used in this section, §§ 55-3-207 -- 55-3-209 and 55-3-212", and by substituting instead the language "As used in this part,".

SECTION 2. Tennessee Code Annotated, Section 55-3-211, is further amended by adding the following language as a new, appropriately designated subdivision:

( ) "Methamphetamine vehicle" means any motor vehicle subject to registration and certificate of title provisions that has been impounded by a law enforcement agency based on a charge of manufacture of methamphetamine on or within the vehicle and for which the department has received a notice of motor vehicle impoundment for manufacture of methamphetamine pursuant to § 55-3-213. Disclosure that a motor vehicle has become a methamphetamine vehicle shall be made upon the department's receipt of such notice by issuance of a new certificate of title conspicuously labeled with the language "Methamphetamine Vehicle" across the front. Upon any subsequent transfer of ownership, the next certificate of title issued after the transfer shall be conspicuously labeled with the language "Methamphetamine Vehicle" across the front;

SECTION 3. Tennessee Code Annotated, Title 55, Chapter 3, Part 2, is amended by adding the following language as a new, appropriately designated section:

55-3-213.

(a) Any law enforcement agency that impounds a motor vehicle due to the manufacture of methamphetamine on or within the motor vehicle shall submit a notice of motor vehicle impoundment for manufacture of methamphetamine to the Department of Revenue within thirty (30) days of such impoundment.

(b) A notice in a form substantially as follows is sufficient to comply with subsection (a):

**Notice of Motor Vehicle Impoundment for Manufacture of  
Methamphetamine**

Notice is hereby given that a motor vehicle has been impounded due to a charge of manufacture of methamphetamine on or within the vehicle. Such motor vehicle was seized at the location described below on \_\_\_\_\_.  
(date)

This motor vehicle has been impounded by

\_\_\_\_\_ pursuant to

(name of law enforcement agency)

Tennessee Code Annotated, § \_\_\_\_\_.

Address of Motor Vehicle Seizure:

\_\_\_\_\_

Name of Motor Vehicle Owner or Owners:

\_\_\_\_\_

Registered Address:

\_\_\_\_\_

Apartment or Unit Number (if applicable):

\_\_\_\_\_

VIN:

\_\_\_\_\_

Year, Make, Model and Color:

\_\_\_\_\_

Name of Person and Agency Giving Notice:

\_\_\_\_\_

Signature of Person Giving Notice:

\_\_\_\_\_

Title/Position:

\_\_\_\_\_

Date:

\_\_\_\_\_.

SECTION 4. The Commissioner of Revenue is authorized to promulgate rules to effectuate the purposes of this act, including, but not limited to, rules to provide a motor vehicle owner an opportunity for a hearing on the issue of whether the certificate of title for such vehicle should be labeled, or should continue to be labeled, as a methamphetamine vehicle. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it and shall apply to all applicable offenses committed on or after such date.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 266**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . . 33  
Noes . . . . . 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--33.

A motion to reconsider was tabled.

**FURTHER ACTION ON HOUSE BILL NO. 2008**

**DIVISION NO. 1**

SECTION 1. This act shall be known and cited as the "Tennessee Civil Justice Act of 2011".

SECTION 2. Tennessee Code Annotated, Section 20-4-104, is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) For all civil actions, if the defendant is not a natural person, the action shall be brought in:

(1) The county where all or a substantial part of the events or omissions giving rise to the cause of action occurred; or

(2)(A) The county where a defendant's principal office in this state is located; or

(B) If a defendant does not maintain a principal office in this state, the county where the person designated by statute as the defendant's agent for service of process is located.

SECTION 3. Tennessee Code Annotated, Section 20-4-101(a), is amended by deleting the language "defendant resides or is found" and substituting instead the language "individual defendant resides".

SECTION 4. Tennessee Code Annotated, Section 20-4-102, is amended by deleting subsection (b) in its entirety and redesignating accordingly.

SECTION 5. Tennessee Code Annotated, Section 20-4-106, is amended by deleting the section in its entirety.

SECTION 6. Tennessee Code Annotated, Title 20, Chapter 4, Part 1, is amended by adding the following as an appropriately designated section:

( ) Nothing in this part shall be construed to repeal or modify any other specific or special venue provision of state law.

SECTION 7. Tennessee Code Annotated, Section 27-1-124, is amended by deleting the section in its entirety and substituting the following instead:

27-1-124.

(a) If a plaintiff in a civil action obtains a judgment under any legal theory, the amount of the appeal bond necessary to stay execution during the course of all appeals or discretionary reviews of that judgment by any appellate court shall not exceed the lesser of (1) twenty-five million dollars (\$25,000,000) or (2) one hundred and twenty-five percent (125%) of the judgment amount.

(b) For purposes of determining the amount of the required bond, the court shall not include punitive or exemplary damages in the judgment amount.

(c) Notwithstanding subsections (a) and (b) if a party proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid payment of a judgment, a court may enter orders that are necessary to protect the appellee and establish the bond amount, which may include any punitive or exemplary damages.

(d) If the appellant establishes by clear and convincing evidence at a post judgment hearing that the cost of the bond and the obligation resulting from the surety's payment of the bond in an amount authorized by this section will render the appellant insolvent, the court shall establish a security in an amount, and other terms and conditions it deems proper, that would allow the appeal of the judgment to proceed, without resulting in the appellant's insolvency. This subsection (d) should be narrowly construed.

(e) If this section is found to be in conflict with any rules prescribed by the supreme court, this section shall apply notwithstanding the provisions of § 16-3-406.

Senator Beavers moved that Division No. 1 be adopted, which motion prevailed.

## **DIVISION NO. 2**

SECTION 8. Tennessee Code Annotated, Title 29, Chapter 26, Part 1, is amended by adding the following as a new section, to be designated as § 29-26-101:

29-26-101.

As used in this part, unless the context otherwise requires:

(a) "Healthcare provider" means:

(1) A healthcare practitioner licensed, authorized, certified, registered, or regulated under any chapter of Titles 63 or 68, including, but not limited to, medical resident physicians, interns, and fellows participating in a training program of one of the accredited medical schools or of one of such medical school's affiliated teaching hospitals in Tennessee;

(2) A nongovernmental healthcare facility licensed under Title 68, Chapter 11;

(3) A nongovernmental health facility licensed under Title 33, Chapter 2, Part 4;

(4) The employee of a healthcare provider involved in the provision of health care, including, but not limited to, physicians, nurses, licensed practical nurses, orderlies, certified nursing assistants, technicians and those employed by a governmental health facility; or

(5) A professional corporation or professional limited liability company established pursuant to Title 48 or a registered limited liability partnership rendering professional services under Title 61 and which consists of one or more healthcare practitioner(s) licensed, authorized, certified, registered, or regulated under any chapter of Titles 63 or 68.

(b) "Healthcare liability action" means any civil action, including claims against the state or a political subdivision thereof, alleging that a healthcare provider or providers have caused an injury related to the provision of, or failure to provide, healthcare services to a person, regardless of the theory of liability on which the action is based.

(c) Healthcare services to persons includes, but is not limited to, care by physicians, nurses, licensed practical nurses, pharmacists, pharmacy interns or pharmacy technicians under the supervision of a pharmacist, orderlies, certified nursing assistants, technicians and other agents, employees and representatives of the provider, but also includes staffing, custodial or basic care, positioning, hydration and similar patient services.

(d) Any such civil action or claim is subject to the provisions of this part regardless of any other claims, causes of action, or theories of liability alleged in the complaint, provided that no provision of this part shall apply to claims against the State of Tennessee to the extent that such provision is inconsistent with or conflicts with the provisions of the Tennessee Claims Commission Act, codified in Title 9, Chapter 8, Part 3.

SECTION 9. The code commission is requested to delete the terms "malpractice", "medical malpractice", "malpractice action", and "medical malpractice action" wherever they appear in the Tennessee Code Annotated and substitute instead the term "healthcare liability" or "healthcare liability action" as applicable.

Senator Beavers moved that Division No. 2 be adopted, which motion prevailed by the following vote:

Ayes . . . . . 22  
Noes . . . . . 10

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero and Stewart--10.

### DIVISION NO. 3

SECTION 10. Tennessee Code Annotated, Title 29, is amended by adding the following as a new Chapter 39, Part 1:

29-39-101.

When used in this act, the following words, shall have the meanings set forth below, unless the context clearly requires otherwise:

(a) "Economic damages" means damages, to the extent they are provided by applicable law, for: objectively verifiable pecuniary damages arising from medical expenses and medical care, rehabilitation services, mental health treatment, custodial care, loss of earnings and earning capacity, loss of income, burial costs, loss of use of property, repair or replacement of property, obtaining substitute domestic services, loss of employment, loss of business or employment opportunities, and other objectively verifiable monetary losses.

(b) "Noneconomic damages" means damages, to the extent they are provided by applicable law, for: physical and emotional pain; suffering; inconvenience; physical impairment; disfigurement; mental anguish; emotional distress; loss of society, companionship, and consortium; injury to reputation; humiliation; noneconomic effects of disability, including loss of enjoyment of normal activities, benefits and pleasures of life and loss of mental or physical health, well-being or bodily functions; and all other nonpecuniary losses of any kind or nature.

29-39-102.

(a) In a civil action, each injured plaintiff may be awarded:

(1) Compensation for economic damages suffered by each injured plaintiff; and

(2) Compensation for any noneconomic damages suffered by each injured plaintiff not to exceed seven hundred fifty thousand dollars (\$750,000) for all injuries and occurrences that were or could have been asserted, regardless of whether the action is based on a single act or omission or a series of acts or omissions that allegedly caused the injuries or death.

(b) If multiple defendants are found liable under the principle of comparative fault, the amount of all noneconomic damages, not to exceed seven hundred fifty thousand dollars (\$750,000) for each injured plaintiff, shall be apportioned among the defendants based upon the percentage of fault for each defendant, so long as the plaintiff's comparative fault (or in a wrongful death action, the fault of the decedent) is not equal to or greater than fifty percent (50%), in which case recovery for any damages is barred.

(c) If an injury or loss is catastrophic in nature, as defined below, the seven hundred fifty thousand dollar (\$750,000) amount limiting noneconomic damages, as set forth in subsections (a)(2) through (b) is increased to, but the amount of damages awarded as noneconomic damages shall not exceed, one million dollars (\$1,000,000).



(d) "Catastrophic loss or injury" means one or more of the following:

(1) Spinal cord injury resulting in paraplegia or quadriplegia;

(2) Amputation of two hands, two feet or one of each;

(3) Third degree burns over forty percent (40%) or more of the body as a whole or third degree burns up to forty percent (40%) percent or more of the face; or

(4) Wrongful death of a parent leaving a surviving minor child or children for whom the deceased parent had lawful rights of custody or visitation.

(e) All noneconomic damages awarded to each injured plaintiff, including damages for pain and suffering, as well as any claims of a spouse or children for loss of consortium or any derivative claim for noneconomic damages, shall not exceed in the aggregate a total of seven hundred fifty thousand dollars (\$750,000), unless subdivision (c) applies, in which case the aggregate amount shall not exceed one million dollars (\$1,000,000).

(f) If there is a disputed issue of fact, the trier of fact, by special verdict, shall determine the existence of a catastrophic loss or injury as defined in subsection (d).

(g) The limitation on the amount of noneconomic damages imposed by subsections (a)(2) through (e) shall not be disclosed to the jury, but shall be applied by the court to any award of noneconomic damages.

(h) The limitation on the amount of noneconomic damages imposed by subsections (a)(2) through (e) shall not apply to personal injury and wrongful death actions:

(1) If the defendant had a specific intent to inflict serious physical injury, and the defendant's intentional conduct did, in fact, injure the plaintiff;

(2) If the defendant materially altered, destroyed or concealed records with the purpose of avoiding or evading liability, provided, however, that this subsection does not apply to the good faith withholding of records pursuant to privileges and other laws applicable to discovery; or

(3) If the defendant was under the influence of alcohol, drugs or any other intoxicant or stimulant, resulting in his or her judgment being substantially impaired, and causing the injuries or death. For purposes of this subsection, a defendant shall not be deemed to be under the influence of drugs or any other intoxicant or stimulant, if the defendant was using lawfully prescribed drugs administered in accordance with a prescription or over-the-counter drugs in accordance with the written instructions of the manufacturer.

(i) If there is a dispute of fact, the trier of fact, by special verdict, shall determine whether the exceptions set forth in subsection (h) apply to the defendant and the cause of action.

(j) The liability of a defendant for noneconomic damages whose liability is alleged to be vicarious shall be determined separately from that of any alleged agent, employee or representative.

(k) Noneconomic damages are not permitted for any claim arising out of harm or loss of property, except as authorized by statute.

(l) No provision in this part shall apply to claims against the State of Tennessee to the extent that such provision is inconsistent with or conflicts with the provision of the Tennessee Claims Commission Act, codified in Title 9, Chapter 8, Part 3. In addition, no provision in this part shall apply to claims against a governmental entity or its employees to the extent that such provision is inconsistent with or conflicts with the Governmental Tort Liability Act, codified in Title 29, Chapter 20.

(m) Nothing in this act shall be construed to create or enhance any claim, right of action, civil liability, economic damage or noneconomic damage under Tennessee law.

29-39-103.

(a) If liability is found in a civil action, then the trier of fact, in addition to other appropriate findings, shall make separate findings for each claimant specifying the amount of:

(1) Any past damages for each of the following types of damages:

(A) Medical and other costs of health care;

(B) Other economic damages; and

(C) Noneconomic damages; and

(2) Any future damages and the periods over which they will accrue, on an annual basis, for each of the following types of damages:

(A) Medical and other costs of health care;

(B) Other economic damages; and

(C) Noneconomic damages.

(b) If the plaintiff claims a catastrophic loss or injury has occurred, and if there is a disputed issue of fact regarding whether such loss or injury has occurred, the trier of fact must make a specific finding of fact, by special verdict, that the loss or injury suffered by the plaintiff is catastrophic as defined in § 29-39-102(d).

(c) The calculation of all future medical care and other costs of health care and future noneconomic losses must reflect the costs and losses during the period of time the claimant will sustain those costs and losses. The calculation for other economic loss must be based on the losses during the period of time the claimant would have lived but for the injury upon which the claim is based. All such calculations of future losses shall be adjusted to reflect net present value.

Senator Beavers moved that Division No. 3 be adopted, which motion prevailed by the following vote:

Ayes . . . . . 20  
Noes . . . . . 12

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Faulk, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero, Stewart and Tate--12.

#### **DIVISION NO. 4**

29-39-104.

(a) In a civil action in which punitive damages are sought:

(1) Punitive damages may only be awarded if the claimant proves by clear and convincing evidence that the defendant against whom punitive damages are sought acted maliciously, intentionally, fraudulently or recklessly.

(2) In an action in which the claimant seeks an award of punitive damages, the trier of fact in a bifurcated proceeding shall first determine whether compensatory damages are to be awarded and in what amount and by special verdict whether each defendant's conduct was malicious, intentional, fraudulent or reckless and whether subsection (a)(7) applies.

(3) If a jury finds that the defendant engaged in malicious, intentional, fraudulent, or reckless conduct, then the court shall promptly commence an evidentiary hearing in which the jury shall determine the amount of punitive damages, if any.

(4) In all cases involving an award of punitive damages, the trier of fact, in determining the amount of punitive damages, shall consider, to the extent relevant, the following: the defendant's financial condition and net worth; the nature and reprehensibility of the defendant's wrongdoing; the impact of the defendant's conduct on the plaintiff; the relationship of the defendant to the plaintiff; the defendant's awareness of the amount of harm being caused and the defendant's motivation in causing such harm; the duration of the

defendant's misconduct and whether the defendant attempted to conceal such misconduct; the expense plaintiff has borne in attempts to recover the losses; whether the defendant profited from the activity, and if defendant did profit, whether the punitive award should be in excess of the profit in order to deter similar future behavior; whether, and the extent to which, defendant has been subjected to previous punitive damage awards based upon the same wrongful act; whether, once the misconduct became known to defendant, defendant took remedial action or attempted to make amends by offering a prompt and fair settlement for actual harm caused; and any other circumstances shown by the evidence that bear on determining a proper amount of punitive damages. The trier of fact shall be instructed that the primary purpose of punitive damages is to punish the wrongdoer and deter similar misconduct in the future by the defendant and others while the purpose of compensatory damages is to make the plaintiff whole.

(5) Punitive or exemplary damages shall not exceed an amount equal to the greater of:

(A) Two (2) times the total amount of compensatory damages awarded; or

(B) Five hundred thousand dollars (\$500,000).

(6) The limitation on the amount of punitive damages imposed by subdivision (a)(5) shall not be disclosed to the jury, but shall be applied by the court to any punitive damages verdict.

(7) The limitation on the amount of punitive damages imposed by subdivision (a)(5) shall not apply to actions brought for damages or an injury:

(A) If the defendant had a specific intent to inflict serious physical injury, and the defendant's intentional conduct did, in fact, injure the plaintiff;

(B) If the defendant materially altered, destroyed or concealed records with the purpose of avoiding or evading liability, provided, however, that this subsection does not apply to the good faith withholding of records pursuant to privileges and other laws applicable to discovery; or

(C) If the defendant was under the influence of alcohol, drugs or any other intoxicant or stimulant, resulting in his or her judgment being substantially impaired, and causing the injuries or death. For purposes of this subsection, a defendant shall not be deemed to be under the influence of drugs or any other intoxicant or stimulant, if the defendant was using lawfully

prescribed drugs administered in accordance with a prescription or over-the-counter drugs in accordance with the written instructions of the manufacturer.

(8) If there is a disputed issue of fact, the trier of fact, by special verdict, shall determine whether the exceptions set forth in subdivision (a)(7) apply to the defendant and the cause of action.

(9) The culpability of a defendant for punitive damages whose liability is alleged to be vicarious shall be determined separately from that of any alleged agent, employee or representative.

(b) Nothing in this section shall be construed as creating a right to an award of punitive damages or to limit the duty of the court, or the appellate courts, to scrutinize all punitive damage awards, ensure that all punitive damage awards comply with applicable procedural, evidentiary and constitutional requirements, and to order remittitur when appropriate.

(c) The seller of a product other than the manufacturer shall not be liable for punitive damages, unless the seller exercised substantial control over that aspect of the design, testing, manufacture, packaging or labeling of the product that caused the harm for which recovery of damages is sought; the seller altered or modified the product and the alteration or modification was a substantial factor in causing the harm for which recovery of damages is sought; or the seller had actual knowledge of the defective condition of the product at the time the seller supplied the same.

(d)(1) Except as provided in subdivision (2) of this subsection (d), punitive damages shall not be awarded in a civil action involving a drug or device if the drug or device which allegedly caused the claimant's harm:

(A) Was manufactured and labeled in relevant and material respects in accordance with the terms of an approval or license issued by the Federal Food and Drug Administration under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C. 301-392, as amended, or the "Public Health Service Act", 53 Stat. 682 (1944), 42 U.S.C. 201-300cc-15, as amended; or

(B) Was an over-the-counter drug or device marketed pursuant to federal regulations, was generally recognized as safe and effective and as not being misbranded pursuant to the applicable federal regulations, and satisfied in relevant and material respects each of the conditions contained in the applicable regulations and each of the conditions contained in an applicable monograph.

(2) Subdivision (d)(1) of this subsection (d) shall not apply in an action against a manufacturer of a drug or device, if, at any time before the event alleged to have caused the harm, the manufacturer, in violation of applicable regulations of the Food and Drug Administration:

(A) Withheld from the Food and Drug Administration information known to be material and relevant to the harm that the claimant allegedly suffered; or

(B) Misrepresented to the Food and Drug Administration information of that type.

(3) For purposes this subsection (d),

(A) "Drug" has the same meaning as in the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040, 1041 (1938), 21 U.S.C. 321(g)(1), as amended.

(B) "Device" has the same meaning as in the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040, 1041 (1938), 21 U.S.C. 321(h), as amended.

(e) Punitive damages shall not be awarded in any civil action when a defendant demonstrates by a preponderance of the evidence that it was in substantial compliance with applicable federal and state regulations setting forth specific standards applicable to the activity in question and intended to protect a class of persons or entities that includes the plaintiff, if those regulations were in effect at the time the activity occurred.

(f) Nothing contained in this chapter shall be construed to limit a court's authority to enter judgment as a matter of law prior to or during a trial on a claim for punitive damages.

Senator Beavers moved that Division No. 4 be adopted, which motion prevailed by the following vote:

Ayes . . . . . 20  
Noes . . . . . 12

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Faulk, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero, Stewart and Tate--12.

## **DIVISION NO. 5**

SECTION 11. Tennessee Code Annotated, Section 29-28-104, is amended by designating the existing language as subsection (a) and by adding the following new subsection (b):

(b) A manufacturer or seller, other than a manufacturer of a drug or device, shall not be liable for exemplary or punitive damages if:

(1) The product alleged to have caused the harm was designed, manufactured, packaged, labeled, sold, or represented in relevant and material respects in accordance with the terms of approval, license or similar determination of a government agency; or

(2) The product was in compliance with a statute of the state or the United States, or a standard, rule, regulation, order, or other action of a government agency pursuant to statutory authority, when such statute or agency action is relevant to the event or risk allegedly causing the harm and the product was in compliance at the time the product left the control of the manufacturer or seller.

(c) Subsection (b) shall not apply if the claimant establishes that the manufacturer or seller:

(1) At any time before the event that allegedly caused the harm, sold the product after the effective date of an order of a government agency that ordered the removal of the product from the market or withdrew the agency's approval of the product; or

(2) In violation of applicable regulations, withheld or misrepresented to the government agency information material to the approval and such information is relevant to the harm which the claimant allegedly suffered.

(d) The award of punitive or exemplary damages against a manufacturer of a drug or device shall be governed by § 29-39-104.

Senator Beavers moved that Division No. 5 be adopted, which motion prevailed by the following vote:

Ayes ..... 20  
Noes ..... 10

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Herron, Marrero, Stewart and Tate--10.

## **DIVISION NO. 6**

SECTION 12. Tennessee Code Annotated, Section 29-28-106, is amended by deleting the section in its entirety and by substituting instead the following:

29-28-106.

No "product liability action", as defined in § 29-28-102(6), shall be commenced or maintained against any seller, other than the manufacturer, unless:

(1) The seller exercised substantial control over that aspect of the design, testing, manufacture, packaging or labeling of the product that caused the alleged harm for which recovery of damages is sought;

(2) Altered or modified the product, and the alteration or modification was a substantial factor in causing the harm for which recovery of damages is sought;

(3) The seller gave an express warranty as defined by Title 47, Chapter 2;

(4) The manufacturer or distributor of the product or part in question is not subject to service of process in the State of Tennessee and the long-arm statutes of Tennessee do not serve as the basis for obtaining service of process; or

(5) The manufacturer has been judicially declared insolvent.

Senator Beavers moved that Division No. 6 be adopted, which motion prevailed by the following vote:

Ayes ..... 20  
Noes ..... 11

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero, Stewart and Tate--11.

#### **DIVISION NO. 7**

SECTION 13. Tennessee Code Annotated, Section 27-1-125, is amended by deleting the section in its entirety and by substituting instead the following:

The court of appeals shall hear appeals from orders of trial courts granting or denying class certification under Rule 23 of the Tennessee Rules of Civil Procedure, if a notice is filed within ten (10) days after entry of the order. All proceedings in the trial court shall be automatically stayed pending the appeal of the class certification ruling.

Senator Beavers moved that Division No. 7 be adopted, which motion prevailed by the following vote:

Ayes ..... 20  
Noes ..... 11

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.



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Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero, Stewart and Tate--11.

**DIVISION NO. 8**

SECTION 14. Tennessee Code Annotated, Section 47-18-109, is amended by adding the following language as a new, appropriately designated subsection:

( ) No private right of action shall be commenced under this section for any alleged unfair or deceptive act or practice involving the marketing or sale of a security as defined in the Tennessee Securities Act, § 48-2-102(17).

Senator Beavers moved that Division No. 8 be adopted, which motion prevailed by the following vote:

Ayes . . . . . 20  
Noes . . . . . 13

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Stewart and Tate--13.

**DIVISION NO. 9**

SECTION 15. Tennessee Code Annotated, Section 47-18-104, is amended by adding the following language at the end of subdivision (b)(27):

provided, however, that enforcement of this subdivision (b)(27) is vested exclusively in the office of the attorney general and reporter and the director of the division.

Senator Beavers moved that Division No. 9 be adopted, which motion prevailed by the following vote:

Ayes . . . . . 21  
Noes . . . . . 11

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Ford, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Barnes, Berke, Burks, Harper, Haynes, Henry, Herron, Kyle, Marrero, Stewart and Tate--11.

**DIVISION NO. 10**

SECTION 16. Tennessee Code Annotated, Section 47-18-109, is amended by deleting the period "." at the end of subdivision (a)(3) and substituting instead the following:

, except that the court may not award exemplary or punitive damages for the same unfair or deceptive practice.

SECTION 17. Tennessee Code Annotated, Section 47-18-109(f)(2) is amended by adding the following after the language "director of the division":

and attorney general and reporter

SECTION 18. Tennessee Code Annotated, Section 47-18-109, is amended by adding the following language to be designated as subsection (g):

(g) No class action lawsuit may be brought to recover damages for an unfair or deceptive act or practice declared to be unlawful by this part.

SECTION 19. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to that end the provisions of this act are declared to be severable.

SECTION 20. For the avoidance of any doubt with respect to the intent of the legislature, if the noneconomic damages limits established in 29-39-102(a)(2) would be invalid due to the exceptions to the limits set forth in either 29-39-102(c) or 29-39-102(h), then 29-39-102(c) or 29-39-102(h) shall be severed to preserve the application of 29-39-102(a)(2).

SECTION 21. For the avoidance of any doubt with respect to the intent of the legislature, if the punitive damages limits established in 29-39-104(a)(5) would be invalid due to the exceptions to the limits set forth in 29-39-104(a)(7), then 29-39-104(a)(7) shall be severed to preserve the application of 29-39-104(a)(5).

SECTION 22. This act shall take effect October 1, 2011, the public welfare requiring it and shall apply to all liability actions for injuries, deaths and losses covered by this act which accrue on or after such date.

Senator Beavers moved that Division No. 10 be adopted, which motion prevailed by the following vote:

Ayes . . . . .	22
Noes . . . . .	9
Present, not voting . . .	1

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, Kyle, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Barnes, Berke, Ford, Harper, Haynes, Herron, Marrero, Stewart and Tate--9.

Senator present and not voting was: Henry--1.

Senator Beavers moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting Section 2, as amended by Amendment No.00591071, and substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 20-4-104, is amended by deleting the section in its entirety and substituting instead the following:

For all civil actions, if the defendant is not a natural person, the action shall be brought in:

(1) The county where all or a substantial part of the events or omissions giving rise to the cause of action accrued; or

(2) The county where any defendant organized under the laws of this state maintains its principal office; or

(3)(A) If the defendant is not organized under the laws of this state, the county where the defendant's registered agent for service of process is located; or

(B) If the defendant does not maintain a registered agent within this state, the county where the person designated by statute as the defendant's agent for service of process is located.

AND FURTHER AMEND by adding the words "physicians and nurses" between the words "those" and "employed" in subsection (a)(4) of § 29-26-101 of the amendatory language of Section 8.

AND FURTHER AMEND by deleting from subdivision (a)(4) of § 29-26-101 in the amendatory language of Section 8, as amended, the language "health care" and substituting instead the language "healthcare services"; and by deleting the language "orderlies", and substituting instead the language "advance practice nurses, physician assistants, nursing technicians, pharmacy technicians, orderlies,".

AND FURTHER AMEND by deleting the word "or" in the second line of subsection (a)(5) in § 29-26-101 in Section 8 of the bill and inserting a "," in its stead and by inserting the following language at the end of subsection (a)(5):

, or any legal entity that is not itself required to be licensed but which employs one or more healthcare practitioners licensed, authorized, certified, registered, or regulated under any chapter of Titles 63 or 68.

AND FURTHER AMEND by deleting the language ", but is not limited to", in subsection (c) of § 29-26-101 in Section 8 of the bill and adding the following language between the words "care by" and "physicians:"

healthcare providers, which includes care by

AND FURTHER AMEND by deleting the word "but" and replacing it with the word "and" in subsection (c) of § 29-26-101 in Section 8 of the bill.

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AND FURTHER AMEND by adding the language "advance practice nurses, physician assistants, nursing" before the word "technicians" in subsection (c) of § 29-26-101 in Section 8 of the bill.

AND FURTHER AMEND by deleting subdivision (h)(2) of § 29-39-102 and subdivision (a)(7)(B) of § 29-39-104 in Section 10, as amended, and replacing it with the following:

If the defendant intentionally falsified, destroyed or concealed records containing material evidence with the purpose of wrongfully evading liability in the case at issue, provided, however, that this subsection does not apply to the good faith withholding of records pursuant to privileges and other laws applicable to discovery, nor does it apply to the management of records in the normal course of business or in compliance with the defendant's document retention policy or state or federal regulations; or

AND FURTHER AMEND by adding at the end of § 29-39-102 in Section 10 of the bill the following new subsection:

(n) The limitations on noneconomic damages in § 29-39-102 shall apply to restrict such recoveries in all civil actions notwithstanding conflicting statutes or common law.

AND FURTHER AMEND by adding the following new sections immediately preceding the first severability clause:

SECTION \_\_\_\_ Tennessee Code Annotated, Section § 47-18-104(b), is amended by deleting the language "Without limiting the scope of subsection (a), the" and substituting instead the language "The".

SECTION \_\_\_\_ Tennessee Code Annotated, Section 47-18-109(a)(1), is amended by inserting the language "described in § 47-18-104(b) and" before the language "declared to be unlawful by this part".

On motion, Amendment No. 2 was adopted.

Senator Herron moved to amend as follows:

**AMENDMENT NO. 3**

AMEND by adding the following as a new, appropriately designated subsection to Section 29-39-102 of the amendatory language of Section 10 of the bill:

( ) Notwithstanding any provision of law to the contrary, the maximum amounts of damages established by this section shall not apply to any action based on the wrongful death or injury of an unborn child.

Senator Kelsey moved that Amendment No. 3 go to the table, which motion prevailed by the following vote:

Ayes . . . . . 19  
Noes . . . . . 14

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

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Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Stewart and Tate--14.

On motion of Senator Herron, Amendment No. 4 was withdrawn.

Senator Herron moved to amend as follows:

**AMENDMENT NO. 5**

AMEND by deleting Section 14 in its entirety and by substituting instead the following:

SECTION 14. Tennessee Code Annotated, Section 47-18-109, is amended by adding the following language as a new, appropriately designated subsection:

( ) No private right of action shall be commenced under this section for any alleged unfair or deceptive act or practice involving the marketing or sale of a security as defined in the Tennessee Securities Act, § 48-2-102(17); provided, however, that a private right of action shall exist for any alleged unfair or deceptive act or practice that is part of a Ponzi scheme.

Senator Kelsey moved that Amendment No. 5 go to the table, which motion prevailed by the following vote:

Ayes ..... 20  
Noes ..... 13

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Stewart and Tate--13.

Senator Barnes moved to amend as follows:

**AMENDMENT NO. 6**

AMEND in Section 10 under § 29-39-102 by designating the current subsection (e) as subdivision (e)(1) and by adding the following as new subdivisions thereto:

(2) In all liability actions for injuries, deaths and losses covered under this act which accrue on or after the date certified by the comptroller of the treasury under subdivision (3), the upper limitation on noneconomic damages provided herein shall increase or decrease in proportion to the increase or decrease in the consumer price index (CPI) of all urban consumers as determined and released by the United States Department of Labor, Bureau of Labor Statistics.

(3) Beginning January 2012, and each January thereafter, as soon as practically possible after the release of the CPI, the comptroller shall certify the date of release of the CPI and the amount by which the upper limitation on noneconomic damages shall increase or decrease and post such certification in a readily identifiable location on the comptroller's Web site.

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On motion, Amendment No. 6 failed by the following vote:

Ayes . . . . . 14  
Noes . . . . . 19

Senators voting aye were: Barnes, Berke, Burks, Faulk, Finney, Harper, Haynes, Henry, Herron, Kyle, Marrero, Overbey, Stewart and Tate--14.

Senators voting no were: Beavers, Bell, Campfield, Crowe, Ford, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

On motion of Senator Marrero, Amendment No. 7 was withdrawn.

On motion of Senator Berke, Amendment No. 8 was withdrawn.

Senator Finney moved to amend as follows:

**AMENDMENT NO. 9**

AMEND in Section 10 by adding the following as a new, appropriately designated section:

29-39-105.

(a) The comptroller of the treasury is directed to conduct a study on the number of new full-time jobs created in Tennessee as a result of this act. For purposes of this section, "job" means a position that is filled by an individual working forty (40) hours a week for three (3) or more consecutive months.

(b) The comptroller shall provide a written report of its findings, the methods used and the factors considered in making those findings, including any interim reports, upon conclusion of its study. The report shall be delivered to the chairperson of the Judiciary Committees of the House of Representatives and the Senate by February 1, 2013.

On motion, Amendment No. 9 failed by the following vote:

Ayes . . . . . 12  
Noes . . . . . 19  
Present, not voting . . . 1

Senators voting aye were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero and Stewart--12.

Senators voting no were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker--19.

Senator present and not voting was: Henry--1.

Senator Stewart moved to amend as follows:

**AMENDMENT NO. 10**

AMEND in Section 10 under Section 29-39-102(a) by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) Compensation for any noneconomic damages suffered by each injured plaintiff not to exceed one million two hundred fifty thousand dollars (\$1,250,000) for all injuries and occurrences that were or could have been asserted, regardless of whether the action is based on a single act or omission or a series of acts or omissions that allegedly caused the injuries or death.

AND FURTHER AMEND in Section 10 under Section 29-39-102(c) by deleting the subsection in its entirety and by substituting instead the following:

(c) If an injury or loss is catastrophic in nature, as defined below, the one million two hundred fifty thousand dollar (\$1,250,000) amount limiting noneconomic damages, as set forth in subsections (a)(2) through (b) is increased to, but the amount of damages awarded as noneconomic damages shall not exceed, two million five hundred thousand dollars (\$2,500,000).

Senator Kelsey moved that Amendment No. 10 go to the table, which motion prevailed by the following vote:

Ayes . . . . . 18  
Noes . . . . . 14

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Overbey and Stewart--14.

On motion of Senator Berke, Amendment No. 11 was withdrawn.

Senator Berke moved to amend as follows:

**AMENDMENT NO. 12**

AMEND in Section 10 under Section 29-39-102(d)(1) by deleting the language "Spinal cord" and by capitalizing the first letter of the word "injury".

Senator Norris moved that Amendment No. 12 go to the table, which motion prevailed by the following vote:

Ayes . . . . . 19  
Noes . . . . . 14

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

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Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Stewart and Tate--14.

Senator Finney moved to amend as follows:

**AMENDMENT NO. 13**

AMEND in Section 10 under Section 29-32-102(d) by deleting the language "or" from the end of subdivision (3), by deleting the period at the end of subdivision (4) and substituting instead the language "; or", and by adding the following as a new subsection (5):

(5) Injury to the brain that results in permanently impaired cognitive capacity, as determined by a score of twelve (12) or less on the Glasgow Coma Scale, rendering the person unable to make independent, responsible life decisions and incapable of independently performing the activities of normal daily living.

Senator Norris moved that Amendment No. 13 go to the table, which motion prevailed by the following vote:

Ayes ..... 18  
Noes ..... 15

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Berke, Burks, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero, Overbey, Stewart and Tate--15.

**MR. SPEAKER RAMSEY RELINQUISHES CHAIR**

Mr. Speaker Ramsey relinquished the Chair to Senator Woodson as Speaker pro tempore.

**MR. SPEAKER RAMSEY RESUMES CHAIR**

Mr. Speaker Ramsey resumed the Chair.

Thereupon, **House Bill No. 2008**, as amended, passed its third and final consideration by the following vote:

Ayes ..... 21  
Noes ..... 12

Senators voting aye were: Beavers, Bell, Burks, Campfield, Crowe, Gresham, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Barnes, Berke, Faulk, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero, Stewart and Tate--12.

A motion to reconsider was tabled.



**STATEMENT OF SENATOR MARK NORRIS  
PURSUANT TO RULE 61**

May 12, 2011

Remarks of Senator Mark Norris on Senate Bill No. 1522 pursuant to Rule 61

Today, we take the next step along the continuum of tort reform which began more than 30 years ago continuing through the medical liability reforms implemented in October 2008.

Previously, we focused on access to affordable health care and which changes could lower hidden costs, to eliminate the hidden tax imposed on all Tennesseans by increasing costs and the judicial process itself.

The Civil Justice Act of 2011 opens a new chapter on the continuum of reform. Economic development is no longer only a local or regional concern. The competition is global so it is important to be competitive with all 50 states, 30 of which have adopted caps to some degree. And though the Act includes caps on some damages, the Act is about much more. We believe it is about cost-effective access to justice in a rapidly changing world where the uncertainties of life command that we quantify risk in such a way as to strengthen the judicial system and our state as a whole.

We do not legislate by anecdote, nor should we litigate by ambush. Robert Frost said, "A jury consists of 12 persons chosen to decide who has the better lawyer." We do not wish to see the legal profession held in such low esteem.

Thus, one of the objectives of the Tennessee Civil Justice Act of 2011 is to make Tennessee more competitive with other states for the best jobs by providing predictability, to, and quantifying the risks of, employers, while also providing adequate compensation to injured plaintiffs. As of February 2011, Tennessee's unemployment rate was 9.6% the same that it was two years ago despite the federal government's attempt to create jobs with approximately \$800 million in stimulus funds. The unemployment rates of various Tennessee counties underscore the dire employment situation: Scott County – 23.2%; Pickett County – 18.5%; Marshall County – 16%; Cocke County – 15.9%; Lauderdale County – 15.8%; Lewis County – 15.5%; Johnson County – 15.2%; Perry County – 15%; Haywood County – 15%; Henderson County – 15%. In fact, unemployment is greater than 10% in 75 of Tennessee's 95 counties. When the Goodyear plant closes, Lake and Obion Counties will lose over 1900 additional jobs.

The costs of an excessive, expensive and inefficient tort liability system extend beyond just employment. Tennessee citizens shoulder the burden through higher prices, lower wages, decreased returns on investments in capital and land, restricted access to health care, high insurance premiums, and less innovation.

The legislature recognizes that it can enact measures to foster an environment that encourages existing employers to expand, attracts other employers to relocate to Tennessee, and ultimately results in the hiring of Tennessee citizens as employees. When executive relocation teams consider expansion and relocation, they weigh a number of factors. A key factor in his consideration is litigation risk and tort liability. Many of Tennessee's neighboring states have already enacted tort reform legislation. Without the measures introduced by the Tennessee Civil Justice Act of 2011, Tennessee is in a precarious position in competing for businesses.

Tennessee has recently fallen in the rankings of several studies of tort liability. In 2006, Tennessee was considered to have one of the best litigation environments, and by 2010 it dropped to 22nd. This drop was due largely to the fact that other states have been more proactive in adopting tort reform. Tennessee is ranked 31st in absolute monetary losses, 37th in medical malpractice losses and 49th in farm-owners' losses. The American Medical Association's State of Liability report ranks Tennessee among 17 states labeled "crisis states" because of its poor liability standing compared to other states. Between Fiscal Years (FY) 2004-2005 and 2009-2010, the number of cases disposed in Tennessee decreased by almost 2000 cases. Despite this, the total monetary damages for the same period increased. During FY 2009-2010, Tennessee juries awarded a total of approximately \$92 million in civil damages, which marked a 119% increase from FY 2004-2005. The average award in personal injury cases increased 35% in 2010 alone.

Achieving the objective of making Tennessee more competitive with neighboring states for the best jobs requires a balancing of many interests. Based upon documentary evidence, testimony received at legislative hearings, and other relevant information, the Senate finds that a limitation on the amount of noneconomic damages and punitive damages recoverable by an injured plaintiff, while compensating injured plaintiffs by the availability of unlimited economic damages, ensures that this objective is achieved. Establishing a limitation on noneconomic and punitive damage awards accomplishes the objective by doing all of the following:

1. Attracting new employers and encouraging existing employers to expand and put their capital at risk, which is accomplished by quantifying risk and creating a more predictable business environment. In the construction industry alone, the potential multiplier effects of the reforms made by the Tennessee Civil Justice Act of 2011 are astounding.
2. Limiting the disincentives of doing business in Tennessee, such as unpredictable or large noneconomic damage awards and the high costs of insurance premiums.
3. Promoting product innovation and availability and fostering entrepreneurship.
4. Reducing the litigation costs for Tennessee employers so that capital may be spent elsewhere by facilitating appeals, narrowing the application of the Tennessee Consumer Protection Act, and protecting innocent sellers.
5. Reducing the barriers to recruiting high quality physicians to Tennessee by expanding the scope of entities covered by 2008 medical malpractice reforms and providing predictability of damage awards.

The Senate further finds that the limitation of \$750,000 or \$1,000,000 in the instances of catastrophic loss or injury, represents an appropriate balance between providing reasonable compensation for noneconomic damages and creating an attractive environment for employers to relocate or expand. Based on studies, documentary evidence, testimony, and the experience of other states, the legislature concludes that there is a dollar figure so low as to deprive the injured plaintiff of reasonable noneconomic damages, and there is a dollar figure at which the cap number is so high that it fails for accomplish the goal of making Tennessee more competitive with other states for the best jobs. We conclude that the number chosen is neither too high nor too low to accomplish the goal of attracting the best jobs to Tennessee, is a reasonable and rational response to the current unemployment situation, and is reasonably and rationally supported by the legislative record.

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In closing, only time will tell whether we strike the right balance by this Act; how well we balance the demands of competition with the state's historic compulsion for compassion. History will be our judge.

**RECESS**

Senator Norris moved the Senate stand in recess for ten minutes, which motion prevailed.

**CALL TO ORDER**

The Senate was called to order by Mr. Speaker Ramsey.

**ROLL CALL**

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

**CALENDAR**

Senator Beavers moved that **Senate Bill No. 326** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

Mr. Speaker Ramsey moved that **Senate Bill No. 395** be moved three places down on the Calendar for today, which motion prevailed.

**Senate Bill No. 480** -- DUI Offenses -- As introduced, clarifies various provisions of the ignition interlock requirements for certain DUI offenders. Amends TCA Title 7; Title 29; Title 37; Title 38; Title 39; Title 40; Title 41; Title 49; Title 55; Title 68 and Title 71.

On motion, Senate Bill No. 480 was made to conform with **House Bill No. 140**.

On motion, House Bill No. 140, on same subject, was substituted for Senate Bill No. 480.

**House Bill No. 140** passed its third and final consideration by the following vote:

Ayes .....	31
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

**Senate Bill No. 487** -- Criminal Offenses -- As introduced, broadens offense of harassment to include electronic communication with or about another person or transmission or display of images that causes or may reasonably cause emotional distress; allows law enforcement to access log files, images or communications posted on social network services' Web sites. Amends TCA Title 39, Chapter 17, Part 3.

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On motion, Senate Bill No. 487 was made to conform with **House Bill No. 300**.

On motion, House Bill No. 300, on same subject, was substituted for Senate Bill No. 487.

Senator Beavers moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by adding the following language as a new subdivision (1) in the amendatory language of Section 2 and by renumbering the existing subdivisions accordingly:

(1) "Electronic communications service" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system;

AND FURTHER AMEND by deleting the language "subsections (d) and (e)" in the directory language of Section 4 and by substituting instead the language "subsection (d)".

AND FURTHER AMEND by deleting subdivision (d)(2) of the amendatory language in Section 4 and by substituting instead the following:

(2) The offense described in subdivision (a)(4) shall not apply to an entity providing an electronic communications service to the public acting in the normal course of providing that service.

AND FURTHER AMEND by deleting subdivision (d)(3) of the amendatory language in Section 4 and by substituting instead the following:

(3)(A) The service providers described in subdivision (d)(2) shall not be required to maintain any record not otherwise kept in the ordinary course of that service provider's business; provided, however, that if any electronic communications service provider operates a Web site that offers a social network service and the electronic communications service provider provides services to consumers in this state, any log files and images or communications that have been sent, posted or displayed on the social network service's Web site and maintained by the electronic communications service provider shall be disclosed to any governmental entity responsible for enforcing subdivision (a)(4) only if the governmental entity:

(i) Obtains a warrant issued using this state's warrant procedures by a court of competent jurisdiction;

(ii) Obtains a court order for the disclosure under subdivision (d)(3)(C);  
or

(iii) Has the consent of the person who sent, posted or displayed any log files and images or communications on the social network service's Web site maintained by the electronic communications service provider.

(B) No cause of action shall lie in any court against any provider of an electronic communications service, its officers, employees, agent, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order or warrant.

(C) A court order for disclosure under subdivision (d)(3)(A)(ii) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court order shall not issue if prohibited by the law of this state. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.

AND FURTHER AMEND by deleting the following language from subdivision (d)(1) of the amendatory language of Section 4 of the bill:

by a fine of one hundred dollars (\$100), or twenty (20) hours of community service, without compensation, for charitable or governmental agencies, or both, as determined by the court.

and by substituting instead the following:

by up to thirty (30) hours of community service, without compensation, for charitable or governmental agencies as determined by the court.

On motion, Amendment No. 1 was adopted.

Senator Beavers moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting the amendatory language of Section 1 in its entirety and substituting instead the following:

Communicates with another person or transmits or displays an image in a manner in which there is a reasonable expectation that the image will be viewed by the victim.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 300**, as amended, passed its third and final consideration by the following vote:

Ayes .....	29
Noes .....	1

Senators voting aye were: Barnes, Beavers, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--29.

Senator voting no was: Bell--1.

A motion to reconsider was tabled.

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**Senate Bill No. 632** -- Business and Commerce -- As introduced, enacts the "Equal Access to Intrastate Commerce Act". Amends TCA Title 4, Chapter 21, Part 1; Title 5; Title 6 and Title 7.

On motion, Senate Bill No. 632 was made to conform with **House Bill No. 600**.

On motion, House Bill No. 600, on same subject, was substituted for Senate Bill No. 632.

Senator Beavers moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_\_. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

On motion, Amendment No. 1 was adopted.

Senator Haynes moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by adding the following as subsection (c) in § 7-51-1802 in the amendatory language of Section 3:

(c) Subsection (a) shall not apply in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census.

Senator Beavers moved that Amendment No. 2 go to the table, which motion prevailed by the following vote:

Ayes . . . . .	17
Noes . . . . .	11

Senators voting aye were: Beavers, Bell, Campfield, Crowe, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Roberts, Southerland, Summerville, Tracy, Watson, Yager and Mr. Speaker Ramsey--17.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Haynes, Henry, Marrero, Stewart and Tate--11.

Thereupon, **House Bill No. 600**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . .	21
Noes . . . . .	8
Present, not voting . . .	1

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Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tracy, Watson, Yager and Mr. Speaker Ramsey--21.

Senators voting no were: Berke, Finney, Ford, Harper, Haynes, Marrero, Stewart and Tate--8.

Senator present and not voting was: Henry--1.

A motion to reconsider was tabled.

Senator Overbey moved that **Senate Bill No. 395** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

**Senate Bill No. 953** -- Election Laws -- As introduced, revises the definition of election official. Amends TCA Section 2-1-104.

On motion, Senate Bill No. 953 was made to conform with **House Bill No. 1120**.

On motion, House Bill No. 1120, on same subject, was substituted for Senate Bill No. 953.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Senator Yager moved that **House Bill No. 1120** be placed on the Calendar for Thursday, May 19, 2011, which motion prevailed.

**Senate Bill No. 1203** -- Election Laws -- As introduced, implements the "Tennessee Voter Confidence Act" only if the general assembly includes a specific recurring appropriation in the General Appropriations Act for the 2011-2012 fiscal year to cover all increased costs to counties directly attributable to the Voter Confidence Act. Amends TCA Title 2.

On motion, Senate Bill No. 1203 was made to conform with **House Bill No. 386**.

On motion, House Bill No. 386, on same subject, was substituted for Senate Bill No. 1203.

On motion of Senator Yager, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 386** passed its third and final consideration by the following vote:

Ayes . . . . .	25
Noes . . . . .	5
Present, not voting . . .	1

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Gresham, Harper, Haynes, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Yager and Mr. Speaker Ramsey--25.

Senators voting no were: Berke, Ford, Herron, Marrero and Tate--5.

Senator present and not voting was: Finney--1.

A motion to reconsider was tabled.

**MOTION**

Senator McNally moved that Rule 37 be suspended for the immediate consideration of **Senate Joint Resolution No. 308**, out of order, which motion prevailed.

**RESOLUTION LYING OVER**

**Senate Joint Resolution No. 308** -- Memorials, Retirement -- Jamie Woodson.

On motion of Senator McNally, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 308** was adopted.

A motion to reconsider was tabled.

**MOTION**

Senator Marrero moved that Rule 37 be suspended for the immediate consideration of **House Joint Resolution No. 442**, out of order, which motion prevailed.

**RESOLUTION LYING OVER**

**House Joint Resolution No. 442** -- Memorials, Congratulations -- Booker T. Washington High School, 2011 Race to the Top Commencement Challenge winner.

On motion of Senator Marrero, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 442** was concurred in.

A motion to reconsider was tabled.

**MOTION**

Senator Burks moved that Rules 32, 33 and 37 be suspended for the introduction and immediate consideration of **Senate Resolution No. 50**, out of order, which motion prevailed.

**INTRODUCTION OF RESOLUTION**

**Senate Resolution No. 50** by Senator Burks.  
Memorials, Interns -- Ashley Krebs.

On motion of Senator Burks, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 50** was adopted.

A motion to reconsider was tabled.



**CALENDAR**

Senator Yager moved that **Senate Bill No. 1215** be placed on the Calendar for Wednesday, May 18, 2011, which motion prevailed.

**Senate Bill No. 1239** -- Regional Authorities and Special Districts -- As introduced, requires advisory committee, if appointed, to East Tennessee regional agribusiness marketing authority to consult with and advise the board on at least a bi-annual basis. Amends TCA Title 64.

Senator Johnson moved that Amendment No. 1 be placed behind Amendment No. 2, which motion prevailed.

Senator Yager moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 64-10-101, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) The purposes of the East Tennessee regional agribusiness marketing authority are to:

(1) Establish and operate a market for agricultural products of the region through a food distribution center, to provide farmers of the region with a ready market for agricultural products and to provide the citizens of the region and other buyers a convenient place to purchase these products; and

(2) Further the economy and growth of the region served by the authority by planning, acquiring, constructing, improving, extending, furnishing, equipping, financing, owning, operating and maintaining a system or systems within the region served by the authority as provided in this chapter.

SECTION 2. Tennessee Code Annotated, Section 64-10-102, is amended by deleting the language "and" at the end of subdivision (5), by deleting the period at the end of subdivision (6), and by adding the following language as new subdivisions at the end of the section:

(7) "System" means a wastewater treatment and collection system that includes, but is not limited to, all devices and systems used in the storage, treatment, recycling and reclamation of sewage or residential, commercial and industrial wastes of a liquid nature to restore and maintain the chemical, physical and biological integrity of the state's waters; and

(8) "Wastewater board" means a board of commissioners established by the board pursuant to the provisions of § 64-10-104(b) to oversee the operations of a system.

SECTION 3. Tennessee Code Annotated, Section 64-10-104, is amended by designating the existing language as subsection (a) and by adding the following language as subsection (b):

(b)(1) The board is authorized to establish a wastewater board composed of members of the board of the authority and other commissioners appointed by the board. The appointed commissioners shall be representatives of any city or utility district that:

(A) Has entered into an agreement with the authority pursuant to which the authority agrees to collect or treat wastewater generated within such city or utility district; or

(B) Certifies to the authority that it intends to enter into an agreement with the authority pursuant to which the authority agrees to collect or treat wastewater generated within such city or utility district.

(2) The authority is authorized to adopt policies and procedures, including bylaws, for the conduct of business of the wastewater board and is authorized to establish the terms of office of the commissioners of the wastewater board. Except as is expressly reserved by the authority, the wastewater board shall have the full authority and right to undertake all powers of the authority relating to a system, except that the wastewater board is not authorized to commit the authority to borrow money or undertake any condemnation without the approval of the board.

SECTION 4. Tennessee Code Annotated, Section 64-10-106, is amended by redesignating the existing subsection (c) as subsection (d) and by inserting the following language as a new subsection (c):

(c) Without limiting the foregoing, the authority shall have the following powers with respect to a system:

(1) To plan, establish, acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain or otherwise, and to construct, equip, furnish, improve, repair, extend, maintain and operate one (1) or more systems within the region, including all real and personal property, facilities and appurtenances that the board of directors of the authority deems necessary in connection therewith and regardless of whether or not such system shall then be in existence;

(2) To enter into agreements with any county, city or utility district for the orderly transfer of any part of the system of such county, city or utility district and, to the extent permitted by law and contract, to assume, to reimburse or to otherwise agree to pay outstanding obligations or liability of such county, city or utility district incurred to acquire, extend or equip the system;

(3) To enter into agreements with any county, city or utility district to acquire by lease, gift, purchase or otherwise any system or property related to the system, of any county, city or utility district and operate such system separately or as a part of its system or enter into agreements with any county, city or utility district providing for the operation by the authority of a system, or any portion of the system, owned by any county, city or utility district;

(4) To acquire, whether by purchase, exchange, gift, devise, lease, the exercise of the power of eminent domain, or otherwise, any and all types of property, franchises, assets and liabilities, whether real, personal or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges or other encumbrances and to hold, sell, lease, exchange, donate or convey its property, facilities or services for the purpose of continuing operation of any system by the authority;

(5) To collect and provide treatment for wastewater from, with or to any county, city, utility district, or other governmental unit of the state, or any agency thereof, or the United States, or any agency thereof, and to enter into contracts, agreements or other arrangements with any county, city, utility district, or other persons in connection therewith, provided, however, that the authority shall not enter into any agreement to collect or provide treatment for wastewater from any private person except with the prior consent of any county, city, utility district, or other governmental entity that is authorized to provide wastewater treatment services to such private person;

(6) To make and enter into all contracts, trust instruments, agreements and other instruments with any county, city or utility district, the state, or agency thereof, the United States, or any agency thereof, or any person, including, without limitation, bonds, notes, loan agreements with the Tennessee local development authority or the Tennessee Department of Environment and Conservation and other forms of indebtedness as if the authority were a local government as such term is defined in applicable statutes governing grants and loans, to construct, equip or extend the system and to enter into contracts for the management and operation of a system or any facilities or service of the authority for the treatment, processing, collection, distribution, storage, transfer or disposal of wastewater;

(7) To incur debts, to borrow money, to issue bonds and to provide for the rights of the holders of such debts, notes, and bonds as provided in this chapter;

(8) To apply for, accept and pledge donations, contributions, loans, guarantees, financial assistance, capital grants or gifts from any county, city or utility district, the state, or any agency thereof, the United States, or any agency thereof, or any person, whether public or private, for, or in aid of, the purposes of the authority and to enter into agreements in connection with such donations, contributions, loans, guarantees, financial assistance, capital grants or gifts;

(9) To pledge all or any part of the revenues, receipts, donations, contributions, loans, guarantees, financial assistance, capital grants or gifts of the authority, to mortgage and pledge one (1) or more of its systems, or any part or parts thereof, whether owned at the time the pledge is entered into, or acquired after the pledge is entered into, and to assign and pledge all or any part of its interest in and rights under contracts and other instruments relating thereto as security for the payment of the principal, premium, if any and interest on bonds, notes or other obligations issued by the authority with respect to a system;

(10) To have control of its systems, facilities and services with the right and duty to establish and charge rates, fees, rental, tolls, deposits and other charges for the use of the facilities and services of the authority and to collect revenues and receipts therefrom, not inconsistent with the rights of holders of its bonds, notes or other obligations;

(11) To enter onto any lands, waters and premises for the purposes of making surveys, soundings and examinations in and for the furtherance of the powers of the authority under this subsection (c);

(12) To use any right-of-way, easement or other similar property right necessary or convenient in connection with a system held by the state or any political subdivision thereof, provided the state or the governing body of such political subdivision consents to such use;

(13) To employ and pay compensation to such agents, including attorneys, accountings, engineers, architects and financial advisors, as the board deems necessary for the business of the authority;

(14) To employ and pay compensation to such employees, including a general manager, who shall have such authority, duties and responsibilities as the board deems necessary; and

(15) To procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any act of any member, officer or employee of the authority in the performance of the duties of the office or employment or any other insurance risk, including the payment of its bonds, notes or other obligations, as the board deems necessary.

SECTION 5. Tennessee Code Annotated, Section 64-10-107, is amended by adding the following language as a new subsection (j):

(j)(1)(A) Without limiting the foregoing, the authority is authorized to issue its bonds, notes or other obligations from time to time for the purpose of paying in whole or in part the cost of constructing, acquiring, extending, improving or equipping a system, which shall be considered a project for purposes of this section.

(B) No bond or note authorized by subdivision (j)(1)(A) shall be issued until the resolution authorizing the issuance of bonds or notes, together with a statement as of the beginning of the then current fiscal year is submitted to the comptroller of the treasury or the comptroller's designee for review and approval. The statement submitted shall show in detail the total outstanding bonds, notes, warrants, refunding bonds, and other evidences of indebtedness of the authority, together with the maturity dates of the bonds, notes, warrants, refunding bonds, and other evidences of indebtedness, interest rates, special provisions for payment, the project to be funded by the bonds or notes, the current operating financial statement of the authority and any other pertinent financial information. The comptroller of the treasury or the

comptroller's designee shall immediately acknowledge receipt in writing of the proposed bond or note issue statement and information. The comptroller of the treasury, or the comptroller's designee, shall report to the authority within fifteen (15) days from the date the plan is received by the comptroller of the treasury or the comptroller's designee.

(C) Upon receipt of the report as provided in subdivision (j)(1)(B), the authority shall cause the report to be published once in a newspaper of general circulation in the county of the principal office of the authority, and any other county, city, or utility district that it serves and in any city or utility district that have entered into an agreement with the authority pursuant to § 64-10-104(b)(1), during the week following the report's receipt. After receiving the report of the comptroller of the treasury or the comptroller's designee, and after publication of such report, or after the expiration of fifteen (15) days from the date the statement and information are received by the comptroller of the treasury or the comptroller's designee, whichever date is earlier, the authority may take such action with reference to the proposed bond or note issue as the authority deems advisable. The report of the comptroller of the treasury or the comptroller's designee shall also be made a part of the bond transcript.

(2) The principal and premium, if any, and interest on any bonds, refunding bonds, notes or other obligations issued pursuant to subdivision (j)(1) may be secured by a pledge of revenues and receipts of all or part of the system. The proceedings under which the bonds, notes, or other obligations are authorized to be issued may contain any agreements, provisions and covenants respecting the maintenance of such system or other facilities covered thereby, the fixing and collection of rents, fees or payments with respect to any system or portions thereof covered by such proceedings, the creation and maintenance of special funds from such revenues and from the proceeds of such bonds, notes or other obligations and the rights and remedies available in the event of default, all as the board deems advisable and not in conflict with the provision of this chapter. To the extent provided in the proceedings authorizing any bonds, notes or other obligations, each pledge and agreement made for the benefit of security of any of the bonds, notes or other obligations shall continue in effect until the principal of and interest on the bonds, notes or other obligations for the benefit of which the same were made shall have been fully paid or adequate provision for the payment thereof shall have been made by the authority. In the event of a default in such payment or in any agreements of the authority made as part of the proceedings under which the bonds, notes or other obligations were issued, such payment or agreement may be enforced by suit, mandamus or the appointment of a receiver in equity, or the proceedings under which the bonds, notes or other obligations are issued.

(3) The board may designate the appropriate officials to execute all documents necessary to provide for the issuance of, or secure the payment of, the bonds, notes or other obligations issued pursuant to subdivision (j)(1).

(4) Bonds, notes or other obligations issued pursuant to subdivision (j)(1) may constitute a joint obligation of the authority, any county that is a member of the authority, and any city or utility district that have entered into an agreement with the authority as provided in § 64-10-104(b)(1). Any such bonds, notes or other obligations upon which a county or city is jointly obligated with the authority may be secured by the full faith and credit and unlimited ad valorem taxing power of such county or city. Bonds, notes, or other obligations issued as a joint obligation of the authority and a county or city shall be issued in the form and manner of Title 9, Chapter 21, Parts 1, 2, and 9, where applicable, and in the event of a conflict between this chapter and Title 9, Chapter 21, Parts 1, 2, and 9, then the provisions of Title 9, Chapter 21, Parts 1, 2, and 9 shall prevail. Notes issued as a joint obligation of the authority and a county or city shall be issued in the form and manner of Title 9, Chapter 21, Parts 1, 4, and 5, where applicable, and in the event of a conflict between this chapter and the provisions of Title 9, Chapter 21, Parts 1, 4, and 5, then the provisions of Title 9, Chapter 21, Parts 1, 4, and 5 shall prevail. Bonds, notes, or other obligations issued as a joint obligation of the authority and a utility district shall be issued in the form and manner of Title 7, Chapter 82, Part 5, where applicable, and in the event of a conflict between this chapter and Title 7, Chapter 82, Part 5, then the provisions of Title 7, Chapter 82, Part 5 shall prevail.

(5) Any bond, note or other obligation issued pursuant to subdivision (j)(1) may be secured by a mortgage or deed of trust covering any or all parts of the property, real or personal, of the system. Any pledge or lien on revenues, fees, rents, toll or other charges received or receivable by the authority to secure the payment of any bonds, notes or other obligations issued pursuant to subdivision (j)(1) and the interest thereon shall be valid and binding from the time that the pledge or lien is created and granted and shall inure to the benefit of the holder or holders of any such bonds, notes or other obligations of the authority until payment in full of the principal, premium and interest thereon. Neither the resolution nor any other instrument granting, creating or giving notice of the pledge or a lien or other such security interest need be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

SECTION 6. Tennessee Code Annotated, Section 64-10-112, is amended by adding the following language at the end of the section:

The authority is authorized to invest any funds of the authority in any investment that would be an eligible investment of a county.

SECTION 7. Tennessee Code Annotated, Section 64-10-113, is amended by deleting subsection (a) and by substituting instead the following language:

(a) The board of directors of the authority shall cause an annual audit to be made of the books and records of the authority. Within thirty (30) days after receipt by the authority, a copy of the annual audit shall be filed with the board, and if the Department of Audit has not prepared the audit, with the comptroller of the treasury or comptroller's designee. The comptroller of the treasury, through the Department of Audit, shall be responsible for determining that such audits are prepared in

accordance with generally accepted governmental auditing standards and that such audits meet the minimum standards prescribed by the comptroller of the treasury. The comptroller of the treasury shall promulgate such rules and regulations as are required to assure that the books and records are kept in accordance with generally accepted accounting principles and that audit standards prescribed by the comptroller of the treasury are met.

SECTION 8. Tennessee Code Annotated, Section 64-10-113, is amended by adding the following language as a new subsection (d):

(d) The current operating financial statements of the authority, and any other pertinent information as required by the comptroller, or the comptroller's designee, shall be submitted annually with the copy of the annual audit, or upon request, to the comptroller, or the comptroller's designee.

SECTION 9. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-118.

The authority may condemn in its own name any land, rights in land, easements, and/or rights-of-way that in the judgment of the wastewater board are necessary for the purposes of acquiring property for the operation, improvement and expansion of a system, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by persons having the power of eminent domain, or otherwise held or used for public purposes; provided, however, that such prior public use will not be interfered with by the use to which such property will be put by the authority; and provided further, that the exercise of eminent domain power shall be approved by a majority of those present and voting of the board of directors of the authority. Such power of condemnation may be exercised in the manner prescribed by any applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain.

SECTION 10. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-119.

(a) The authority, its properties at any time owned by it and the income and revenues derived from such properties shall be exempt from all state, county and municipal taxation. All bonds, notes and other obligations issued by the authority and the income from such bonds, notes, and other obligations shall be exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes or except as otherwise provided by state law. Bonds issued by the authority shall be deemed to be securities issued by a public instrumentality or a political subdivision of the state.

(b) Neither the Tennessee Regulatory Authority nor any board or commission of like character hereafter created shall have jurisdiction over the authority in the management and control of a system, including the regulation of its rates, fees, tolls or charges, provided, however, the authority is subject to regulation by the Department of Environment and Conservation as a public sewerage system.

(c) Notwithstanding any provision in any other law to the contrary, the authority may acquire, construct, improve and extend a system in the region served by the authority without the consent of any county, city or utility district.

SECTION 11. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-120.

(a) Any county, city or utility district may take all actions under this chapter by resolution of its governing body. Any county, city or utility district shall have all powers necessary in order to further the purposes of this chapter, including, without limitation, the power to sell, lease, dedicate, donate or otherwise convey to the authority any of its interest in any existing wastewater system, franchises, assets, liabilities or other related property, whether real or personal, or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges or other encumbrances, or grant easements, license or other rights or privileges therein to the authority and to contract with the authority.

(b) Any county, city or utility district may enter into agreements with the authority for the orderly transfer of all or any part of its system and to enter into agreement for the authority to assume, to pay or to refund bonds, notes or other obligations issued by a county, city or utility district entered into by the county, city or utility district to acquire, construct or equip all or any part of a system.

(c) Any county, city or utility district is authorized to advance, donate or lend money to the authority and to provide that funds available to it for a system shall be paid to the authority.

(d) Any county, city or utility district shall have the same right to enter into any agreement with the authority that the wastewater board deems necessary to carry out the purposes of this chapter as a county, city or utility district has to enter into similar agreements with wastewater treatment authorities as provided by Title 68, Chapter 221, Part 6.

SECTION 12. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-121.

Nothing contained in this chapter shall be construed as a restriction or a limitation upon any powers that a county, city or utility district might otherwise have under any laws of this state, but shall be construed as cumulative of and supplemental to any such powers. No proceedings, notice or approval shall be required with respect to the issuance of bonds, notes or other obligations of the authority or any instrument as security for the bonds, notes or other obligations except as provided in this chapter, any law to the contrary notwithstanding; provided, that nothing in this section shall be construed to deprive the state and its governmental subdivisions of their respective police powers or to impair any power of any official or agency of the state and its governmental subdivisions that may be otherwise provided by law.



SECTION 13. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-122.

(a) The authority is hereby authorized, whenever desirable by its board, to enter into contracts, agreements or other arrangements with any county, city or utility district regarding a system, any wastewater facility or any wastewater service of the authority. Any such contract or agreement may extend for any period not exceeding forty (40) years from the date thereof.

(b) Any county, city or utility district seeking to enter into such agreement with the authority shall have the same rights and liabilities as it would otherwise have in entering into a similar agreement with a wastewater treatment authority as provided by Title 68, Chapter 221, Part 6.

SECTION 14. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-123.

For the purposes of this chapter, Title 4, Chapter 31, and Title 68, Chapter 221, the authority shall be deemed to be a local government unit and shall be eligible for the same grants, loans, and other assistance, and subject to the same obligations and requirements imposed by law related to such grants, loans, and assistance as any other local government unit.

SECTION 15. Tennessee Code Annotated, Title 64, Chapter 10, is amended by adding the following language as a new section:

64-10-124.

This chapter is remedial in nature and shall be liberally construed to effect its purpose of providing for a systematic and efficient means of the provision of wastewater services to the region served by the authority and the powers granted in this chapter may be exercised without regard to requirements, restrictions or procedural provisions contained in any other law or charter except as expressly provided in this chapter.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

On motion of Senator Johnson, Amendment No. 1 was withdrawn.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

Thereupon, **Senate Bill No. 1239**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . . 30  
Noes . . . . . 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senator Faulk moved that **Senate Bill No. 1521** be placed on the Calendar for Thursday, May 19, 2011, which motion prevailed.

**Senate Bill No. 1571** -- State Government -- As introduced, creates the Tennessee Interagency Cash Flow Committee. Amends TCA Section 4-29-234 and Title 9, Chapter 4, Part 6.

Senator Watson moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting the first sentence of subsection (c) of Section 1 and by substituting instead the following:

The committee shall meet on the call of the chair, but no less often than bi-monthly in such place and such time as the chair shall designate.

AND FURTHER AMEND by deleting from the first sentence of subsection (f) of Section 1 the word and figures "September 1, 2011" and by substituting instead the word and figures "January 1, 2012".

On motion, Amendment No. 1 was adopted.

Senator Watson moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting Section 2 of the bill which reads as follows:

SECTION 2. The Tennessee Interagency Cash Flow Committee, created by Section 1 of this act, shall terminate on June 30, 2013, pursuant to § 4-29-118, unless continued by the general assembly.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 1571**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . . 31  
Noes . . . . . 0

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senator Tracy moved that **Senate Bill No. 1658** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

**Senate Bill No. 1951** -- Public Records -- As introduced, deletes language prohibiting a custodian from assessing a charge to view a public record; authorizes custodians of public records to charge persons for labor costs associated with producing the records, if it requires one hour or longer to produce the documents. Amends TCA Title 10, Chapter 7, Part 5.

Senator Yager moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 10-7-503(a)(1), is amended by designating the existing language as (a)(1)(A) and by adding the following language to be designated as subdivision (a)(1)(B):

(B) "Public record or records" or "state record or records" does not include the device or equipment, including, but not limited to, a cell phone, computer or other electronic or mechanical device or equipment, that may have been used to create or store a public record or state record.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1951**, as amended, passed its third and final consideration by the following vote:

Ayes .....	31
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

**Senate Bill No. 1958** -- Sexual Offenders -- As introduced, allows three or more sexual offenders to establish primary or secondary residence together if the property on which they live has been zoned for a use other than residential or mixed use by the appropriate local zoning laws. Amends TCA Title 40, Chapter 39, Part 2.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

On motion, Senate Bill No. 1958 was made to conform with **House Bill No. 808**.

On motion, House Bill No. 808, on same subject, was substituted for Senate Bill No. 1958.

**House Bill No. 808** passed its third and final consideration by the following vote:

Ayes .....	25
Noes .....	1

Senators voting aye were: Barnes, Beavers, Burks, Campfield, Crowe, Ford, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--25.

Senator voting no was: Bell--1.

A motion to reconsider was tabled.

Senator Stewart moved that **Senate Bill No. 1962** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

**Senate Joint Resolution No. 221** -- Constitutional Amendments -- Proposes additional language in Article II, Section 28 to explicitly prohibit the general assembly from levying, authorizing or otherwise permitting any state or local tax upon payroll or earned personal income or any state or local tax measured by payroll or earned personal income.

Senator Kelsey moved that the Clerk read the resolution, which motion prevailed.

The Clerk read the resolution.

Thereupon, Mr. Speaker Ramsey declared pursuant to Article XI, Section 3, **Senate Joint Resolution No. 221** had been read.

Senator Campfield moved that **Senate Bill No. 426** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

Senator Crowe moved that **Senate Bill No. 522** be placed on the Calendar for Monday, May 16, 2011, which motion prevailed.

Senator Berke moved that **Senate Bill No. 803** be placed on the Calendar for Wednesday, May 18, 2011, which motion prevailed.

**Senate Bill No. 1438** -- Education, Curriculum -- As introduced, requires emphasis on American foundational instruments and instruction in American historical achievement. Amends TCA Title 49.

On motion, Senate Bill No. 1438 was made to conform with **House Bill No. 1625**.

On motion, House Bill No. 1625, on same subject, was substituted for Senate Bill No. 1438.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

Senator Henry moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting the amendatory language in Section 1, as amended, in its entirety and by substituting instead the following language:

( ) The State Board of Education, in consultation with the Department of Education, shall review the current elementary and secondary curriculum standards for the subjects of Tennessee and United States government. The purpose of the review shall be to determine if the recommendations of the general assembly pursuant to this section are being met. The state board shall include in its review an analysis of the teaching of foundational instruments, including the Declaration of Independence, the Tennessee and United States Constitutions and the Bill of Rights, and values of Tennessee and American government.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 1625**, as amended, passed its third and final consideration by the following vote:

Ayes .....	31
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

**Senate Bill No. 1471** -- Education -- As introduced, requires school year to begin no earlier than fourth Monday in August unless the Department of Education grants a waiver; requires department to create a timeline detailing how state will meet federal school choice notification requirements. Amends TCA Title 49.

On motion of Senator Gresham, Amendment No. 1 was withdrawn.

Senator Barnes moved that Amendment No. 2 be placed behind Amendment No. 4, which motion prevailed.

On motion of Senator Barnes, Amendment No. 3 was withdrawn.

Senator Barnes moved to amend as follows:

**AMENDMENT NO. 4**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-6-3004, is amended by deleting subsection (f) in its entirety and substituting instead the following:

(f)(1) The Department of Education shall establish a definition for "year-round calendar" applicable to this subsection taking into account federal guidelines, other states' definitions and existing year-round and alternative calendars adopted by LEAs; provided, however, that any school in which students attending receive eight (8) or fewer weeks of summer vacation shall be considered a year-round school.

(2) For the 2012-2013 school year, LEAs shall commence the school year no earlier than the third Monday in August and, beginning with the 2013-2014 school year and for school years thereafter, LEAs shall commence the school year no earlier than the fourth Monday in August, unless an LEA's board of education votes by a majority of its membership to establish a year-round calendar for all or any of the schools within its jurisdiction in accordance with the department's attendance policies.

(3) LEAs that in any consecutive five-year period average more than ten (10) days of canceled school days per year due to inclement weather, natural disaster, or serious outbreak of contagious illness may request a waiver from the Department of Education to establish a school year that begins prior to the school start date specified in subdivision (2), for the school year immediately following the five-year period. If the waiver is granted, the number of days an LEA may start prior to the school start date specified in subdivision (2) shall be equal to one-half (1/2) the average number of days canceled in the five-year period.

(4) The provisions of this subsection shall not be construed to apply to innovative educational programs pursuant to § 49-1-207 or schools within the achievement school district pursuant to § 49-1-614.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 1, Part 6, is amended by adding the following as a new section:

§ 49-6-\_\_.

(a) The department shall create and publish a timeline that shall demonstrate the state's ability to meet school choice notification requirements under the federal Elementary and Secondary Education Act.

(b) LEAs are encouraged to schedule "Back to School" events in a time frame that allows students taking advantage of public school choice to participate.

(c) Students shall not be prevented from taking part in clubs, teams, or organizations due to the exercise of school choice options pursuant to the federal Elementary and Secondary Education Act; however, if an LEA, or the school by virtue of its membership in an association, follows a general policy that requires all students who transfer under any choice option within the LEA to "sit out" from interscholastic sports for a specified period of time after the transfer, then the LEA or school may apply that policy to students who transfer

under the public school choice provisions. If the LEA or school does not follow such a general policy, it may not impose one on students who enter the school under the public school choice provisions.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Overbey moved to amend as follows:

**AMENDMENT NO. 1 TO AMENDMENT NO. 4**

AMEND by deleting subdivision (f)(2) in the amendatory language of Section 1 and by substituting instead the following:

(f)(2) For the 2012-2013 school year, LEAs shall commence the school year no earlier than the second Monday in August; for the 2013-2014 school year, LEAs shall commence the school year no earlier than the third Monday in August; and beginning with the 2014-2015 school year and for school years thereafter, LEAs shall commence the school year no earlier than the fourth Monday in August; unless an LEA's board of education votes by a majority of its membership to establish a year-round calendar for all or any of the schools within its jurisdiction in accordance with the department's attendance policies.

On motion, Amendment No. 1 to Amendment No. 4 was adopted.

On motion, Amendment No. 4, as amended, was adopted.

On motion of Senator Gresham, Amendment No. 2 was withdrawn.

Thereupon, **Senate Bill No. 1471**, as amended, passed its third and final consideration by the following vote:

Ayes .....	24
Noes .....	5

Senators voting aye were: Barnes, Bell, Berke, Burks, Crowe, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Ketron, Marrero, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Watson, Yager and Mr. Speaker Ramsey--24.

Senators voting no were: Beavers, Campfield, Kelsey, McNally and Tracy--5.

A motion to reconsider was tabled.

**Senate Bill No. 1483** -- Education, Curriculum -- As introduced, mandates courses in civics in local government in 6th grade, state government in 7th grade and federal government in 8th grade, beginning in the 2011-2012 school year, instead of current authorization of optional civics course. Amends TCA Title 49, Chapter 1 and Title 49, Chapter 6, Part 10.

Senator Gresham moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. The State Board of Education, in consultation with the Department of Education, is directed to review the curriculum standards for civics education to determine whether the course of instruction in all public schools is designed to educate children in local, state and federal government. The state board shall report its findings and conclusions to the Education Committees of the Senate and the House of Representatives before the second Tuesday in January 2012.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

Senator Gresham moved to amend as follows:

**AMENDMENT NO. 1 TO AMENDMENT NO. 1**

AMEND by deleting the language "designed to educate" in Section 1 and by substituting instead the language "designed to effectively and rigorously educate".

On motion, Amendment No. 1 to Amendment No. 1 was adopted.

On motion, Amendment No. 1, as amended, was adopted.

Thereupon, **Senate Bill No. 1483**, as amended, passed its third and final consideration by the following vote:

Ayes .....	31
Noes .....	0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

**Senate Bill No. 1671** -- Education, Higher -- As introduced, changes various requirements for registration of athlete agents, providing notice of athlete agent activities to higher education institutions and penalties for violations of "Athlete Agent Reform Act of 2011". Amends TCA Title 49, Chapter 7, Part 21.

Senator Gresham moved to amend as follows:

**AMENDMENT NO. 1**

AMEND by deleting all of the language after the enacting clause and substituting instead the following:



**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

SECTION 1. Tennessee Code Annotated, Section 49-7-2122, is amended by deleting the section in its entirety and by substituting instead the following:

49-7-2122.

This part shall be known and may be cited as the "Athlete Agent Reform Act of 2011".

SECTION 2. Tennessee Code Annotated, Section 49-7-2123(2), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(2)(A) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract, or, for compensation or for anything of value, procures, offers, promises, negotiates, or attempts to procure, offer, promise, or negotiate on behalf of a student athlete, employment with a professional sports team or organization as a professional athlete or enrollment at any college, university, community or junior college that offers an athletic scholarship to the student athlete;

(B) "Athlete agent" includes, but is not limited to, actual agents; individuals commonly referred to as runners; managers; marketing representatives; financial advisors; and employees, independent contractors, or other persons acting on behalf of an athlete agent who participate in the activities included under this subdivision (2) and also includes an individual who:

(i) Is authorized by a student athlete to enter into an agreement;

(ii) Works for or on behalf of an athlete agent; or

(iii) Represents to the public that he or she is an athlete agent;

(C) "Athlete agent" does not include:

(i) A parent or legal guardian, unless the parent or legal guardian of the student athlete accepts a form of a financial benefit or gift on behalf of the student athlete or for himself or herself that is not allowed by the regulations or bylaws of the National Collegiate Athletic Association as such regulations or bylaws existed on January 1, 2011; or

(ii) Any individual acting solely on behalf of a professional sports team, professional sports organization or educational institution, unless that individual is acting in violation of the regulations or bylaws of the National Collegiate Athletic Association as such regulations or bylaws existed on January 1, 2011.

SECTION 3. Tennessee Code Annotated, Section 49-7-2124, is amended by deleting the section in its entirety and by substituting instead the following language:

49-7-2124.

(a) The secretary of state shall administer this part.

(b) A person, resident or nonresident, who does business in this state as an athlete agent, regardless of whether such person is registered pursuant to this part, shall:

(1) By so doing, consent to the jurisdiction of the courts of this state;

(2) Be subject to suit in this state; and

(3) Be deemed to have appointed the secretary of state as such person's agent to accept service of process in any civil action related to such person doing business as an athlete agent that is commenced against such person in this state.

(c) The secretary of state may:

(1) Conduct public or private investigations, within or outside of this state, which the secretary deems necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this part or a rule adopted under this part, or to aid in the enforcement of this part or in the adoption of rules and forms under this part;

(2) Require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the secretary determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(3) Publish a record concerning an action, proceeding, or an investigation under, or a violation of, this part or a rule adopted under this part, if the secretary determines it is necessary or appropriate in the public interest.

(d) For purposes of conducting an investigation under this chapter, the secretary or the secretary's designee may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of any records that the secretary considers relevant or material to the investigation.

SECTION 4. Tennessee Code Annotated, Section 49-7-2125, is amended by deleting subsection (b) and by substituting instead the following language:

(b) Before being issued a certificate of registration, an individual may act as an athlete agent for all purposes except signing an agency contract if, within seven (7) days after an initial act as an athlete agent, the individual submits an application to register as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under the contract to the individual or entity who tendered or paid the consideration.

SECTION 5. Tennessee Code Annotated, Section 49-7-2126(a), is amended by deleting subdivision (9) and by substituting instead the following language:

(9) Whether there has been any administrative or judicial determination by any certifying organization or governmental entity that the applicant or any person named pursuant to subdivision (a)(7) has made a false, misleading, deceptive or fraudulent representation;

SECTION 6. Tennessee Code Annotated, Section 49-7-2126, is amended by adding the following language as a new subsection thereto:

(c) An athlete agent must notify the secretary of state within thirty (30) days whenever the information contained in any application for registration as an athlete agent in this state changes in a material way or becomes inaccurate or incomplete in any respect. Events requiring notice shall include, but are not limited to, the following:

- (1) Change in address of athlete agent's principal place of business;
- (2) Conviction of a felony or any other crime involving moral turpitude by the athlete agent;
- (3) Denial, suspension, refusal to renew, or revocation of a registration, certification, or license of the athlete agent as an athlete agent in any state or by any certifying organization; or
- (4) Sanction, suspension, or other disciplinary action taken against the athlete agent arising out of occupational or professional conduct.

SECTION 7. Tennessee Code Annotated, Section 49-7-2128(a), is amended by deleting the word "The" at the beginning of the subsection and substituting the language "After proper notice and an opportunity for hearing, the".

SECTION 8. Tennessee Code Annotated, Section 49-7-2132, is amended by deleting the section in its entirety and by substituting instead the following:

(a)(1) Before an athlete agent, or their agent's employee or representative, may initiate first direct or indirect contact with any of the following individuals, with the intent or for the purpose of soliciting the student athlete or procuring employment from the student athlete, the athlete agent or their agent's employee or representative shall provide the athletic director of the educational institution at which the student athlete is enrolled with written notification forty-eight (48) hours prior to the planned contact with such individual or individuals:

(A) The student athlete;

(B) The student athlete's spouse, or the parent, foster parent, guardian, sibling, aunt, uncle, grandparent, child, or first cousin of the student athlete or the student athlete's spouse; or

(C) A representative of any of the individuals in subdivisions (a)(1)(A) and (B).

(2) A copy of the notice required pursuant to subdivision (a)(1) shall be provided to the educational institution's general counsel.

(3) If the educational institution does not have an athletic director, the notice required pursuant to subdivision (a)(1) shall be given to the president of the educational institution.

(b)(1) Within forty-eight (48) hours after entering into an agency contract or verbally agreeing to enter into an agency contract, or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give written notice of the existence of the contract or verbal agreement to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(2) A copy of the notice required pursuant to subdivision (b)(1) shall be provided to the educational institution's general counsel.

(3) If the educational institution does not have an athletic director, the notice required pursuant to subdivision (b)(1) shall be given to the president of the educational institution.

(c)(1) Within forty-eight (48) hours after entering into an agency contract or verbally agreeing to enter into an agency contract, or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall give written notice to the athletic director or the educational institution at which the student athlete is enrolled that the student athlete has entered into an agency contract or has verbally agreed to enter into an agency contract.

(2) A copy of the notice required pursuant to subdivision (c)(1) shall be provided to the educational institution's general counsel.

(3) If the educational institution does not have an athletic director, the notice required pursuant to subdivision (c)(1) shall be given to the educational institution's general counsel, if known, or to the president of the educational institution.

(d) Failure by the student athlete to provide the notification required pursuant to subsection (c) may subject the student athlete to disciplinary action in accordance with the educational institution's rules and regulations for student conduct.

SECTION 9. Tennessee Code Annotated, Section 49-7-2135(b), is amended by adding the following language as a new subdivision (3) and by renumbering the remaining subdivisions accordingly:

(3) Fail to provide to the secretary of state any statements, documents, records, or testimony required by the secretary pursuant to § 49-7-2124 or the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 10. Tennessee Code Annotated, Section 49-7-2138, is amended by deleting the language "twenty-five thousand dollars (\$25,000)" and substituting instead the language "two hundred fifty thousand dollars (\$250,000)".

SECTION 11. Tennessee Code Annotated, Section 49-7-2141, is amended by deleting the language "the Uniform Athlete Agents Act of 2001" and by substituting instead the language "this part".

SECTION 12. Tennessee Code Annotated, Title 49, Chapter 7, Part 21, is amended by inserting the following language as new, appropriately designated sections:

49-7-21\_\_.

(a) If the secretary of state determines that a person has engaged in or is engaging in an act, practice, or course of business constituting a violation of this part or a rule adopted or order issued under this part, or that a person has materially aided or is materially aiding in an act, practice, or course of business constituting a violation of this part or a rule adopted or order issued under this part, the secretary of state may:

(1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business, or to take other action necessary or appropriate to comply with this part or any rule or order promulgated thereunder;

(2) Issue an order imposing an administrative penalty against an athlete agent who violated this part or any rule or order promulgated thereunder; and

(3) Take any other action permitted under this part.

(b) An order issued under subdivision (a)(1) is effective on the date of issuance by the secretary. Upon issuance of the order, the secretary of state shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or other administrative remedy to be imposed under subdivision (a)(1), a statement of the costs of investigation the secretary of state will seek to recover, a statement of the reasons for the order, and a statement notifying the person of such person's right to a hearing under § 49-7-2128. If a person subject to the order does not request in writing a hearing within thirty (30) days of the date the order is issued and a hearing is not ordered by the hearing officer, the order, including the imposition of a civil penalty or requirement for payment of the costs of investigation, shall become final as to that person by operation of law.

(c) In a final order, the secretary of state may charge the actual cost of an investigation or proceeding for a violation of this part or a rule adopted or order issued under this part.

(d) If a petition for judicial review of a final order is not filed in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, or the petition is denied by the court, the secretary of state may

file a certified copy of the final order with the clerk of a court in the jurisdiction where enforcement will be sought. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(e) If a person does not comply with an order issued under this section, the secretary of state may petition a court of competent jurisdiction to enforce the order and collect administrative civil penalties and costs imposed under the final order. The court shall not require the secretary of state to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may grant any relief the court determines is just and proper in the circumstances.

49-7-21\_\_.

(a) Any person who, in this state, knowingly influences, or attempts to influence, any student athlete to accept an athletic scholarship that is offered by a higher education institution from which such person receives any compensation or any other thing of value shall provide a written disclosure of such person's relationship with the higher education institution to the student athlete concurrently with initially making such influence or attempt to influence. Any person who is required to disclose a relationship with a higher education institution to a student athlete pursuant to this subsection (a) shall also provide, within forty-eight (48) hours of providing the written disclosure to the student athlete, a written disclosure of such relationship to the student athlete's parent or legal guardian, the secretary of state, and to the athletic director, president and the general counsel of the higher education institution from which such person has influenced or attempted to influence the student athlete to accept an athletic scholarship.

(b) This section shall not apply to any person who is an employee of the higher education institution for which such person influences or attempts to influence a student athlete to accept an athletic scholarship.

(c) Failure to provide a written disclosure as required by subsection (a) is a Class E felony punishable by a fine of no more than twenty-five thousand dollars (\$25,000) or confinement for no less than one (1) year nor more than six (6) years, or both.

(d) In addition to the criminal penalty provided in subsection (c), the secretary of state may assess a civil penalty against a person not to exceed two hundred and fifty thousand dollars (\$250,000) for a violation of this section. Any hearing on the imposition of any fine pursuant to this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall take effect on July 1, 2011, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Senator Tracy moved to amend as follows:

**AMENDMENT NO. 2**

AMEND by deleting the second period "." that appears at the end of the second § 49-7-21\_\_ (c) in Section 12 of the bill as amended by drafting # 624705.

AND FURTHER AMEND by deleting in its entirety, subsection (d) from the second § 49-7-21\_\_ in Section 12 of the bill as amended by drafting # 624705 and substituting instead the language:

(d) In addition to the criminal penalty provided in subsection (c), the secretary of state may assess a civil penalty pursuant to § 49-7-2138. Any hearing on the imposition of any fine pursuant to this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

AND FURTHER AMEND by deleting Section 10 of the bill as amended by drafting # 624705 and renumbering the remaining sections accordingly.

Pursuant to Rule 39(3), Amendment No. 2 was adopted by the following vote:

Ayes . . . . . 30  
Noes . . . . . 0

Senators voting aye were: Barnes, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--30.

Thereupon, **Senate Bill No. 1671**, as amended, passed its third and final consideration by the following vote:

Ayes . . . . . 31  
Noes . . . . . 0

Senators voting aye were: Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senator McNally moved that **Senate Bill No. 1935** be rereferred to the Committee on Calendar, which motion prevailed.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**House Bill No. 1151** -- Tort Liability and Reform -- As introduced, removes a statutory reference to notice provisions of the "Governmental Tort Liability Act" that are no longer in existence. Amends TCA Title 29, Chapter 20, as amended.

Senator Norris declared Rule 13 on **House Bill No. 1151**.

Senator Ketron moved to amend as follows:

**AMENDMENT NO. 3**

AMEND by deleting subsection (b) of 29-20-112 of the amendatory language of Section 2 as amended by amendment # 00463366 and substituting instead the following:

(b)(1) Except as provided in subdivision (3) of this subsection (b), neither a local board of education nor a school official owes a duty of care to keep the premises of a public school safe for entry or use by others outside of regularly scheduled school activities or to give warning of unknown dangerous or hazardous conditions, uses, structures or activities on the premises.

(2) Unless otherwise specified in the agreement, if a recreational activity is conducted pursuant to a recreational joint use agreement, the local board of education or school official entering the agreement does not owe a greater duty of care than that which is owed under subdivision (1).

(3) Notwithstanding the duty of care or duty to warn owed pursuant to this subsection, the immunity conferred upon a local board of education or school official by the recreational joint use agreement shall not apply to a person who is injured or suffers property damage on school property pursuant to such agreement if the injury or damage was proximately caused by the gross negligence, or willful, wanton or malicious conduct of the local board of education or school official.

AND FURTHER AMEND by deleting subsection (e) of 29-20-112 of the amendatory language of Section 2, as amended, by amendment # 00463366 and redesignating accordingly.

On motion, Amendment No. 3 was adopted.

Thereupon, **House Bill No. 1151**, as amended, passed its third and final consideration by the following vote:

Ayes .....	23
Noes .....	2

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Faulk, Ford, Gresham, Haynes, Henry, Johnson, Kelsey, Ketron, Norris, Overbey, Roberts, Southerland, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--23.

Senators voting no were: Berke and Marrero--2.

A motion to reconsider was tabled.



**MESSAGE CALENDAR**

**SENATE BILL ON HOUSE AMENDMENT**

**Senate Bill No. 741** -- Utilities, Utility Districts -- As introduced, revises various provisions regarding utility districts, water systems and wastewater systems including provisions governing a required bond and annual audit. Amends TCA Title 7, Chapter 82 and Title 68, Chapter 221, Part 10.

**HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2**

AMEND by deleting the directory language from Amendment No. 2, drafting code 7559, and by substituting instead the following directory language:

By deleting the language "; provided, however, that if the county mayor fails to make an appointment for a position from such lists following three (3) submissions for such position, then the county mayor shall appoint the commissioner for such position without any further nominations." and by substituting instead the following language:

**HOUSE AMENDMENT NO. 2**

AMEND by deleting the language ", then the county mayor shall appoint the commissioner for such position without any further nominations." from the amendatory language of Section 8, as amended, and by substituting instead the following language:

; provided, however, that if the county mayor fails to make an appointment for a position from the second list of nominees submitted, then the county mayor shall appoint a commissioner for such position from the third list of nominees submitted.

Senator Yager moved that the Senate concur in House Amendment No. 2, as amended, to **Senate Bill No. 741**, which motion prevailed by the following vote:

Ayes . . . . .	22
Noes . . . . .	1
Present, not voting . . .	1

Senators voting aye were: Barnes, Beavers, Bell, Burks, Campfield, Crowe, Gresham, Haynes, Henry, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Tracy, Watson, Yager and Mr. Speaker Ramsey--22.

Senator voting no was: Herron--1.

Senator present and not voting was: Faulk--1.

A motion to reconsider was tabled.

**SENATE BILL ON HOUSE AMENDMENT**

**Senate Bill No. 219** -- Sunset Laws -- As introduced, extends the standards committee, department of children's services, June 30, 2017. Amends TCA Title 4, Chapter 29 and Title 37, Chapter 5, Part 5.

**HOUSE AMENDMENT NO. 1**

AMEND by deleting in the directory language of Section 2 of the printed bill the language "Section 4-29-238(a)" and by substituting instead the language "Section 4-29-234(a)".

AND FURTHER AMEND by adding the following as a new section to precede the effective date section:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Section 37-5-516, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) The commissioner shall appoint a standards committee composed of twelve (12) citizens, three (3) from each grand division of the state, and three (3) at-large for the purpose of developing or reviewing standards and regulations for each class of child care agency defined in this part. The classes of child care agencies regulated by the department shall be represented by members of the standards committee.

Senator Watson moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 219**, which motion prevailed by the following vote:

Ayes . . . . . 27  
Noes . . . . . 0

Senators voting aye were: Barnes, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey--27.

A motion to reconsider was tabled.

**SENATE BILL ON HOUSE AMENDMENT**

**Senate Bill No. 220** -- Sunset Laws -- As introduced, extends the standards committee, department of human services, June 30, 2015. Amends TCA Title 4, Chapter 29 and Title 71, Chapter 3, Part 5.

**HOUSE AMENDMENT NO. 1**

AMEND by deleting in the directory language of Section 2 of the printed bill the language "Section 4-29-236(a)" and by substituting instead the language "Section 4-29-234(a)".

AND FURTHER AMEND by adding the following as a new section to precede the effective date section:

SECTION \_\_\_\_\_. Tennessee Code Annotated, Section 71-3-511, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) The commissioner of human services shall appoint a standards committee composed of twelve (12) citizens, three (3) from each grand division of the state, and three (3) at-large for the purpose of developing or reviewing standards and

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

regulations for each class of child care agency defined in this part. The classes of child care regulated by the department shall be represented by members of the standards committee.

Senator Watson moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 220**, which motion prevailed by the following vote:

Ayes . . . . . 28  
Noes . . . . . 0

Senators voting aye were: Barnes, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson, Yager and Mr. Speaker Ramsey --28.

A motion to reconsider was tabled.

Senator Ketron moved that **Senate Bill No. 16** be placed on the Message Calendar for Thursday, May 19, 2011, which motion prevailed.

**NOTICES**

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 546. The House nonconcurred in Senate Amendment No. 1.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1265, substituted for House Bill on same subject, amended, and passed by the House.

JOE MCCORD,  
Chief Clerk.

**MOTION**

Senator Norris moved that the Proposed Schedule for the week of May 16, 2011, be adopted and made the action of the Senate, which motion prevailed.

**TENNESSEE STATE SENATE  
107th GENERAL ASSEMBLY**

**PROPOSED SCHEDULE  
FOR THE WEEK OF MAY 16, 2011**

**MONDAY – May 16**

2:30 p.m.

Budget Sub-committee of Finance, Ways & Means  
Committee

## THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY

6:00 p.m.

Session – Senate Chamber

### TUESDAY – May 17

8:30 a.m. – 12:00 noon

Judiciary Committee

12:00 noon – 1:00 p.m.

Lunch

1:00 p.m. – 1:30 p.m.

Government Operations Committee

1:30 p.m. – 3:30 p.m.

Finance, Ways & Means Committee

3:30 p.m. – 5:30 p.m.

Budget Sub-committee of Finance, Ways & Means  
Committee

5:30 p.m.

Judiciary Committee – if necessary

### WEDNESDAY – May 18

8:30 a.m.

Session – Senate Chamber

10:30 a.m. – 12:30 p.m.

Budget Sub-committee of Finance, Ways & Means  
Committee

12:30 p.m. – 1:00 p.m.

Lunch

1:00 p.m. – 2:30 p.m.

Education Committee

2:30 p.m. – 3:30 p.m.

Tax Sub-committee of Finance, Ways & Means  
Committee

3:30 p.m. – 5:00 p.m.

Finance, Ways & Means Committee

### THURSDAY – May 19

8:30 a.m.

Session – Senate Chamber

10:30 a.m.

Finance, Ways & Means Committee

### FRIDAY – May 20

8:30 a.m.

Session – Senate Chamber

10:30 a.m.

Finance, Ways & Means Committee – if necessary

### SATURDAY – May 21

8:30 a.m.

Session – Senate Chamber

10:30 a.m.

Finance, Ways & Means Committee – if necessary

NOTE: Joint Government Operations Rule Review, Monday, May 16, 2011, at 1:30 p.m., Room 16 LP.

### RECALL OF BILL

On motion of Mr. Speaker Ramsey, **Senate Bill No. 1836** was recalled from the Committee on Finance, Ways and Means.

REFERRAL OF BILL

Mr. Speaker Ramsey moved that Senate Bill No. 1836 be referred to the Committee on Calendar, which motion prevailed.

MOTION

On motion of Senator Yager, his name was added as sponsor of **Senate Bill No. 64; and House Joint Resolution No. 374.**

On motion of Senator Johnson, his name was added as sponsor of **Senate Bills Nos. 326, 1522 and 1670; and House Joint Resolution No. 375.**

On motion of Senator Ford, her name was added as sponsor of **Senate Bill No. 476; and Senate Joint Resolution No. 371.**

On motion of Senators Marrero, Barnes, Burks, Ford, Harper, Haynes and Stewart, their names were added as sponsors of **Senate Bill No. 487.**

On motion of Senator Marrero, her name was added as sponsor of **Senate Bill No. 755.**

On motion of Senators Ford, Norris and Ketron, their names were added as sponsors of **Senate Bill No. 1471.**

On motion of Senator Tracy, his name was added as sponsor of **Senate Bill No. 1852.**

On motion of Senators Johnson and Gresham, their names were added as sponsors of **Senate Joint Resolution No. 221.**

On motion of Senators Kyle, Overbey and Burks, their names were added as sponsors of **Senate Joint Resolution No. 276.**

On motion of Senators Barnes, Beavers, Bell, Berke, Burks, Crowe, Faulk, Finney, Ford, Gresham, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Kyle, Marrero, Norris, Roberts, Southerland, Stewart, Summerville, Tate, Tracy, Watson and Yager, their names were added as sponsors of **Senate Joint Resolution No. 308.**

On motion of Senator Burks, her name was added as sponsor of **House Joint Resolution No. 192.**

On motion of Senators Marrero, Ford and Kyle, their names were added as sponsors of **House Joint Resolutions Nos. 373, 391 and 392.**

On motion of Senator Roberts, his name was added as sponsor of **House Joint Resolutions Nos. 377, 378, 379, 380, 381 and 382.**

On motion of Senators Henry and Gresham, their names were added as sponsors of **House Joint Resolution No. 384.**

On motion of Senator Faulk, his name was added as sponsor of **House Joint Resolution No. 386.**

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

On motion of Senators Watson and Berke, their names were added as sponsors of **House Joint Resolution No. 388**.

On motion of Senators Overbey, Gresham, Kyle, Ford and Marrero, their names were added as sponsors of **House Joint Resolution No. 389**.

On motion of Senators Herron, Ford and Marrero, their names were added as sponsors of **House Joint Resolution No. 390**.

On motion of Senators Berke, Kyle, Herron, Overbey and Ford, their names were added as sponsors of **House Joint Resolution No. 393**.

On motion of Senator Campfield, his name was added as sponsor of **House Joint Resolution No. 427**.

On motion of Senators Marrero, Ford, Kelsey, Kyle, Norris, Tate, Barnes, Beavers, Bell, Berke, Burks, Campfield, Crowe, Faulk, Finney, Gresham, Harper, Haynes, Henry, Herron, Johnson, Ketron, McNally, Overbey, Roberts, Southerland, Stewart, Summerville, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **House Joint Resolution No. 442**.

**ENGROSSED BILLS**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 266, 1239, 1471, 1483, 1571, 1598, 1671 and 1951; and Senate Joint Resolutions Nos. 276 and 308; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 37, 479, 587, 693, 694, 1008, 1267, 1631, 1671 and 1920; passed by the House.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 427, adopted, for the Senate's action.

JOE MCCORD,  
Chief Clerk.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 428, 429, 430, 431, 432, 434 and 437; adopted, for the Senate's action.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 440 and 444, adopted, for the Senate's action.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 442, adopted, for the Senate's action.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 572, 714 and 1582; substituted for House Bills on same subjects and passed by the House.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 314, 316, 317, 318, 319, 320, 322, 323, 324 and 357; concurred in by the House.

JOE MCCORD,  
Chief Clerk.

**ENROLLED BILLS**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 572 and 714, find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**ENROLLED BILLS**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bill No. 1582, and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**ENROLLED BILLS**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 314, 316, 317, 318, 319, 320, 322, 323 and 324; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**ENROLLED BILLS**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolution No. 357, and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**ENROLLED BILLS**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 46 and 49, and find same correctly enrolled and ready for the signature of the Speaker.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**ENROLLED BILLS**

May 13, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 219, 220 and 741; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.



**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**ENROLLED BILLS**

May 13, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolution No. 50, and find same correctly enrolled and ready for the signature of the Speaker.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 260, 761, 829, 980, 1093 and 1819 and House Joint Resolution No. 442; for the signature of the Speaker.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 192, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 388, 389, 390, 391, 392, 393 and 427; for the signature of the Speaker.

JOE MCCORD,  
Chief Clerk.

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: Senate Bills Nos. 352, 523, 1416, 1910, 1988 and 2029; and House Joint Resolution No. 442.

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: Senate Bills Nos. 572, 714 and 1582.

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 314, 316, 317, 318, 319, 320, 322, 323 and 324.

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: Senate Joint Resolution No. 357.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: Senate Resolutions Nos. 46 and 49.

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: House Bills Nos. 260, 761, 829, 980, 1093 and 1819.

**SIGNED**

May 12, 2011

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 192, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 388, 389, 390, 391, 392, 393 and 427.

**SIGNED**

May 13, 2011

The Speaker announced that he had signed the following: Senate Resolution No. 50.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 352, 523, 1416, 1910, 1988 and 2029; signed by the Speaker.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 314, 316, 317, 318, 319, 320, 322, 323 and 324; signed by the Speaker.

JOE MCCORD,  
Chief Clerk.

**MESSAGE FROM THE HOUSE**

May 12, 2011

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 357, signed by the Speaker.

JOE MCCORD,  
Chief Clerk.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**REPORT OF CHIEF ENGROSSING CLERK**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 352, 523, 1416, 1910, 1988 and 2029; and Senate Joint Resolutions Nos. 314, 316, 317, 318, 319, 320, 322, 323 and 324; for his action.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**REPORT OF CHIEF ENGROSSING CLERK**

May 12, 2011

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolution No. 357, for his action.

M. SCOTT SLOAN,  
Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR**

May 12, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 52, 235, 265, 350, 483, 655, 836 and 1171; with his approval.

HERBERT H. SLATERY III,  
Counsel to the Governor.

**MESSAGE FROM THE GOVERNOR**

May 12, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolution No. 357, with his approval.

HERBERT H. SLATERY III,  
Counsel to the Governor.

**MESSAGE FROM THE GOVERNOR**

May 13, 2011

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 46, 177, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274 and 275; with his approval.

HERBERT H. SLATERY III,  
Counsel to the Governor.

**THURSDAY, MAY 12, 2011 -- 34TH LEGISLATIVE DAY**

**REPORT OF COMMITTEE ON CALENDAR  
CONSENT CALENDAR # 1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, May 16, 2011: Senate Joint Resolutions Nos. 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342 and 343; and House Joint Resolutions Nos. 394, 395, 396, 399, 400, 401, 402, 403, 404, 405 and 406.

This the 13th day of May, 2011.  
MIKE FAULK, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR  
CONSENT CALENDAR # 2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, May 16, 2011: Senate Bills Nos. 254, 403, 706, 754, 755, 1034, 1048, 1149, 1186, 1270, 1334 and 1788; Senate Joint Resolution No. 315; and House Joint Resolution No. 129.

This the 13th day of May, 2011.  
MIKE FAULK, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, May 16, 2011: Senate Joint Resolution No. 221; Senate Bills Nos. 1658, 65, 164, 167, 168, 170, 171, 172, 173, 175, 206, 224, 1011, 1027, 1095, 1150, 1262, 1476, 1836 and 1959; Senate Joint Resolution No. 118; and Senate Bills Nos. 61, 326, 395, 426, 522, 910, 1033, 1198, 1431, 1539, 1745, 1962 and 2077.

This the 13th day of May, 2011.  
MIKE FAULK, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR  
SENATE MESSAGE CALENDAR**

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Monday, May 16, 2011: Senate Bills Nos. 1258, 1265, 1710 and 1936; and House Bill No. 546.

This the 13th day of May, 2011.  
MIKE FAULK, Chairperson.

**ADJOURNMENT**

Senator Norris moved the Senate adjourn until 6:00 p.m., Monday, May 16, 2011, which motion prevailed.